



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

**COMPLAINT CLOSURE – MEMORANDUM TO FILE**

**Subject:** Closure of 01X-16-R5 (Barrington)

**To:** FILE

**From:** Jonathan Stein (JMS)

**Date:** February 16, 2017

**Recommended Action:** ADMINISTRATIVELY CLOSE FILE 01X-16-R5 DUE TO NON-RESPONSE TO RFC / UNREACHABLE COMPLAINANT

**Rationale:**

- Complaint received by OCR, 10/5/2015, mailing return address label was very clear
  - Complaint does not include phone number or email address as potential alternatives to hardcopy written communications
- Acknowledgment sent, 10/9/2015
  - USPS tracking indicates this was received by complainant, 10/15/2015
- RFC sent by OCR, 8/9/2016
  - USPS tracking indicates following occurred:
    - Notice Left (No Authorized Recipient Available), 8/13/2016
    - Unclaimed at Post Office/Max Hold Time Expired, 9/2/2016
    - Yellow Sticker on Returned Envelope states "Return to Sender, Unclaimed, Unable to Forward", sticker printed 9/7/2016
    - OCR received returned envelope, 9/12/2016
- JMS instructed intern Jessica Crockett to attempt to find alternative contact methods, 9/15/2016
- Jessica Crockett found two phone numbers and called them, 9/16/2016 – did not get an answer or a returned call
  - Unclear if additional attempt(s) were made by Jessica – no records indicating she did or did not make additional attempt(s) after that

**Concurrence:**



Yes

**Signed:**

A handwritten signature in black ink, appearing to read "Jonathan Stein", is written over a horizontal line.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

July 6, 2016

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 1987

**In Reply Refer to:**

EPA File No.: 02NO-16-R4

Mr. Dawson Morton  
Farmworker Rights Division of  
Georgia Legal Services Program  
104 Marietta Street  
Suite 250  
Atlanta, Georgia 30303-2076

**Re: Notification of Acceptance of Administrative Complaint**

Dear Mr. Morton:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting your administrative complaint filed against the Georgia Department of Agriculture (GDA) received by EPA on October 7, 2015. The complaint generally alleges that GDA failed to provide language interpretation services to a national origin minority, limited-English proficient worker during certain important proceedings, in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*, and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. (40 C.F.R. §7.120(d)(1)). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. (C.F.R. § 7.120(b)(1)) Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. (40 C.F.R. § 7.120 (b)(2)) Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. (40 C.F.R. § 7.15)

After careful consideration, OCR has determined that the complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes allegedly discriminatory acts that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory acts occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against ADEQ, a recipient of EPA financial assistance at the time of the alleged discriminatory acts.

Accordingly, OCR will investigate the following:

Whether GDA's operation of its Worker Protection Standards Program promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136w discriminated against limited English proficient workers including Latino workers, on the basis of national origin, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation.


The decision to investigate the issues above is not a decision on the merits. OCR is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with you and the recipient, if appropriate, and determine next steps utilizing its internal procedures. In the intervening time, OCR will provide GDA with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving their copy of the letter. *See* 40 C.F.R. 7.120(d)(1)(ii-iii).

The EPA's nondiscrimination regulation provides that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at <http://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi>. We may be contacting both you and GDA's representative in the future to discuss your potential interest in pursuing ADR, as well GDA's interest in entering into informal resolution discussions. We invite you to review OCR's Interim Case Resolution Manual at [http://www.epa.gov/sites/production/files/2015-12/documents/ocr\\_crm\\_final.pdf](http://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf) for a fuller explanation of the complaint resolution process.

Finally, we would like to remind you that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with OCR. OCR would investigate such a complaint if the situation warranted.

If you have questions regarding this letter, please contact Samuel Peterson, Case Manager, at 202-564-5393, via electronic mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. S. Dorka', written in a cursive style.

Lilian S. Dorka  
Acting Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel,  
Civil Rights & Finance Law Office

Ken Lapierre  
Assistant Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 4

Oscar Morales  
Associate Assistant Administrator  
Deputy Civil Rights Official  
U.S. EPA Office of Chemical Safety and Pollution Prevention





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, D.C. 20460**

EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

February 8, 2017

**Return Receipt Requested**

Certified Mail# 70153010000112675287

**In Reply Refer to:**

EPA File No. 02-NO-16-R4

Mr. Isaac Raisner  
Ms. Solimar Mercado-Spencer  
Georgia Legal Service Program  
104 Marietta Street, Suite 250  
Atlanta, Georgia 30303-2706

Dear Mr. Raisner and Ms. Mercado-Spencer:

This letter is to inform you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement (Agreement) entered into between EPA and the Georgia Department of Agriculture (GDA). On July 6, 2016, EPA accepted your complaint, No. 02NO-16-R4, which alleged discrimination based on national origin in violation of Title VI and the EPA regulation at 40 C.F.R. Part 7 relating to GDA's alleged failure to provide language interpretation services to a national origin minority, limited English proficient worker during certain important proceedings. Specifically, ECRCO accepted for investigation:

Whether GDA's operation of its Worker Protection Standards Program promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136w discriminated against limited English proficient workers including Latino workers, on the basis of national origin, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation.

During the course of EPA's investigation, GDA agreed to enter into an Informal Resolution Agreement in order to resolve this complaint.<sup>1</sup> The enclosed Agreement is entered into by GDA and the EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, and EPA regulation found at 40 C.F.R. Part 7. It resolves complaint No. 02NO-16-R4 and additional concerns identified by EPA. It is

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<sup>1</sup> See ECRCO's Case Resolution Manual regarding informal resolution of complaints, at [https://www.epa.gov/sites/production/files/2017-01/documents/final\\_epa\\_ogc\\_ecrco\\_crm\\_january\\_11\\_2017.pdf](https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf).

Mr. Isaac Raisner and Ms. Solimar Mercado-Spencer, Page 2

understood that the Agreement does not constitute an admission by GDA or a finding by EPA of violations of 40 C.F.R. Part 7.

The enclosed Agreement does not affect GDA's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's regulation at 40 C.F.R. Part 7, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth ECRCO's disposition of the complaint. This letter is not a formal statement of ECRCO policy and should not be relied upon, cited, or construed as such.

If you have any questions, please feel free to contact me at (202) 564-9649, by e-mail at [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov), or U.S. mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel

Cc:

Kenneth Redden  
Acting Associate General Counsel  
Civil Rights & Finance Law Office  
U.S. EPA Office of General Counsel

Vicki Tellis  
Acting Assistant Regional Administrator  
Acting Deputy Civil Rights Official  
U.S. EPA Region 4

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

**AGREEMENT**  
**between the**  
**GEORGIA DEPARTMENT OF AGRICULTURE**  
**and the**  
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**ECRCO Complaint No. 02NO-16-R4**

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**I. PURPOSE AND JURISDICTION**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and United States Environmental Protection Agency's (EPA) regulation at 40 Code of Federal regulations (C.F.R.) Part 7 prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance. The Georgia Department of Agriculture (GDA) is a recipient<sup>1</sup> of federal financial assistance from the EPA and is subject to the provisions of Title VI and 40 C.F.R. Part 7.

On July 6, 2016, EPA accepted complaint No. 02NO-16-R4 brought under Title VI and EPA's regulation at 40 C.F.R. Part 7 that alleges discrimination based on race and national origin in violation of Title VI. GDA has agreed to enter into this Informal Resolution Agreement ("Agreement") in order to resolve said complaint.

This Agreement is entered into by the GDA and the EPA's External Civil Rights Compliance Office (ECRCO).

This Agreement is entered into pursuant to the authority granted EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and EPA regulation found at 40 C.F.R. Part 7. It resolves complaint No. 02NO-16-R4 and additional concerns identified by EPA. It is understood that this Agreement does not constitute an admission by GDA or a finding by EPA of violations of 40 C.F.R. Part 7.

GDA is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and the other federal non-discrimination laws enforced by EPA regulation at 40 C.F.R. Part 7. The activities detailed in Section III of this Agreement, which GDA has voluntarily agreed to undertake and implement, are in furtherance of this commitment.

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<sup>1</sup> Throughout this Agreement, "Recipient" refers to GDA.

## **II. BACKGROUND**

On July 6, 2016, EPA accepted complaint No. 02NO-16-R4. In response to the complaint, EPA initiated an investigation of GDA's compliance with Title VI and the EPA regulation at 40 C.F.R. Part 7. The Agreement herein relates to the resolution of the issue that EPA accepted for investigation in this matter, that GDA's operation of its Worker Protection Standards Program (WPS) promulgated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136w discriminated against limited English proficient (LEP) workers, including Latino workers, on the basis of national origin.

We understand that EPA Region 4 is working with GDA regarding compliance with the WPS unrelated to making the program accessible to limited English proficient communities. This Agreement does not address the efforts undertaken by Region 4 on those substantive WPS issues.

In addition, during the course of the investigation, EPA ECRCO reviewed the requirements of 40 C.F.R. Part 7, Subpart D that are foundational elements of a recipient's non-discrimination program and are required for all recipient programs and activities. These include: the designation of at least one person to coordinate its efforts to comply with its non-discrimination obligations under 40 C.F.R. § 7.85(g); adoption of grievance procedures that assure the prompt and fair resolution of complaints alleging civil rights violations under 40 C.F.R. § 7.90; and, continuing notice of non-discrimination under 40 C.F.R. § 7.95.

## **III. SPECIFIC GDA COMMITMENTS**

**GDA agrees to undertake the following commitments and non-discrimination procedural safeguards.**

It is ECRCO's understanding that GDA is in the process of reviewing the non-discrimination procedural safeguards and taking steps to bring its program into compliance within the timeframe set out below:

### ***1. Access for Persons with Limited-English Proficiency:***

- a. GDA will develop, publish, and implement written procedures to ensure meaningful access to all of GDA's programs and activities by all persons, including access by LEP individuals and individuals with disabilities.
- b. GDA will conduct the appropriate analysis described in EPA's LEP Guidance found at 69 FR 35602 (June 25, 2004) and <http://www.lep.gov> to determine what language services it may need to provide to ensure that LEP individuals can meaningfully participate in the process. GDA should develop a language access plan consistent with the details found in EPA's training module for LEP. <http://www.epa.gov/civilrights/lepaccess.htm>

- c. Within 120 days of the effective date of this Agreement, GDA will forward to EPA a final draft of its written procedures to ensure meaningful access to all of GDA's programs and activities by all persons, including access by persons with LEP. EPA will review the draft procedures and provide any comments within 60 days of receipt.

## ***2. Access for Persons with Disabilities:***

- a. GDA will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services provided by GDA in a timely manner and in such a way as to protect the privacy and independence of the individual.
- b. Within 120 days of the effective date of this Agreement, GDA will forward to EPA a final draft of its written procedures to ensure meaningful access to all of GDA's programs and activities by persons with disabilities. EPA will review the draft procedures and provide any comments within 60 days of receipt.

## ***3. Notice of Non-Discrimination under the Federal Non-Discrimination Statutes<sup>2</sup>***

- a. GDA will post a notice of non-discrimination on the GDA website and in general publications that are distributed to the public. In order to ensure effective communication with the public, GDA will ensure that its notice of non-discrimination is accessible to LEP individuals and individuals with disabilities.
- b. The notice will contain, at a minimum, the following statements:
  - i. GDA does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of its programs or activities, as required by applicable laws and regulations.
  - ii. GDA is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements of 40 C.F.R. Part 7 (Non-discrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI

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<sup>2</sup> Title VI, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 13 of Federal Water Pollution Control Act of 1972, and Title IX of the Education Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination statutes).



of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

- iii. If you have any questions about this notice or any of GDA's non-discrimination programs, policies or procedures, you may contact:

[GDA to INSERT NAME]  
Georgia Department of Agriculture  
19 Martin Luther King Jr. Drive, S.W.  
Atlanta, Georgia 30334-4201  
Email address: [insert]

- iv. If you believe that you have been discriminated against with respect to a GDA program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at [titlevi@agr.georgia.gov](mailto:titlevi@agr.georgia.gov) or call 404-586-1152, to learn how and where to file a complaint of discrimination.

- c. Within 30 days of the effective date of this Agreement, GDA will publish its notice of non-discrimination on its website as specified above. GDA will begin publishing its notice of non-discrimination in general publications that are distributed to the public within 180 days of the effective date of this Agreement.

#### ***4. Grievance Procedures for Complaints filed under the Federal Non-Discrimination Statutes***

- a. GDA will ensure that it has widely and prominently published its grievance procedures to process discrimination complaints filed under federal non-discrimination statutes, and will review them annually to ensure that they remain up to date, in publication at all times, and prominently online, to allow for prompt and appropriate handling of those discrimination complaints.
- b. The grievance procedures will at a minimum address the following:
  - i. Clearly identify the Non-Discriminator Coordinator, including contact information;
  - ii. Explain the role of the Non-Discrimination Coordinator relative to the coordination and oversight of the grievance procedures;
  - iii. State who may file a complaint under the procedures;

- iv. Describe the grievance process;
  - v. Explain that an appropriate, prompt and impartial investigation of any allegations filed under federal non-discrimination statutes will be conducted;
  - vi. State that the preponderance of the evidence standards will be applied during the analysis of the complaint;
  - vii. Contain assurances that retaliation is prohibited and that claims of retaliation will be handled promptly if it occurs;
  - viii. State that written notice will be promptly provided about the outcome of the investigation, including whether discrimination is found and the description of the investigation process.
- c. Within 120 days of the effective date of this Agreement, GDA will forward to ECRCO a final draft of its grievance procedures for review. ECRCO will review the draft procedures and provide any comments within 60 days of receipt.

#### ***5. Designation of a Non-Discrimination Coordinator***

- a. GDA will ensure that it has designated at least one Non-Discrimination Coordinator to ensure GDA's compliance with the federal non-discrimination statutes.
- b. GDA will ensure the notice and the grievance procedure that it widely publishes contains the title, email address, telephone number, and other contact information of the Non-Discrimination Coordinator. GDA will explain the responsibilities of the Non-Discrimination Coordinator in its grievance procedures adopted pursuant to Section III, Paragraph c., iii of this Agreement.
- c. GDA will ensure that the Non-Discrimination Coordinator's responsibilities include the following:
  - i. Providing information to individuals internally and externally regarding their right to services, aids, benefits, and participation in any GDA program or activity without regard to their race, national origin, color, sex, disability, age or prior opposition to discrimination.
  - ii. Providing notice of GDA's grievance process and the ability to file a discrimination complaint with GDA.

- iii. Maintaining grievance policies and procedures or mechanisms (e.g., an investigation manual) to ensure that all discrimination complaints filed with GDA under federal non-discrimination statutes are processed promptly and appropriately and that meaningful access is provided for persons with LEP and disabilities to GDA programs and activities.
  - iv. Ensuring the tracking of all discrimination complaints filed with GDA under federal non-discrimination statutes including any patterns or systemic problems.
  - v. Conducting a semiannual review of all discrimination complaints filed with the GDA Non-Discrimination Coordinator under federal non-discrimination statutes and/or any other complaints independently investigated by GDA in order to identify and address any patterns or systemic problems.
  - vi. Informing GDA staff regarding the GDA's obligations to comply with federal non-discrimination statutes and serve as a resource on such issues.
  - vii. Ensuring that complainants are updated on the progress of their discrimination complaints filed with GDA under federal non-discrimination statutes and are promptly informed as to any determinations made.
  - viii. Periodically evaluating the efficacy of GDA's efforts to provide services, aids, benefits, and participation in any GDA program or activity without regard to race, national origin, color, sex, disability, age or prior opposition to discrimination.
  - ix. Ensuring appropriate training in the formal and informal processes available to resolve complaints filed under federal non-discrimination statutes.
  - x. Providing or procuring appropriate services to ensure GDA employees are appropriately trained on GDA non-discrimination policies and procedures, as well as the nature of the federal non-discrimination obligations.
- d. The Non-Discrimination Coordinator will not have other responsibilities that create a conflict of interest (e.g., serving as the Non-Discrimination Coordinator as well GDA legal advisor or representative on civil rights issues).

- e. Within 60 days of the effective date of this Agreement, GDA will have designated a Non-Discrimination Coordinator and provided appropriate public notice of such as specified above.
- f. Within 30 days of appointment of a Non-Discrimination Coordinator, GDA will forward to ECRCO proof that it has designated a Non-Discrimination Coordinator and that the Non-Discrimination Coordinator has assumed the responsibilities identified in subsection 5(c) above. As proof, ECRCO will accept from GDA a signed statement from the incumbent acknowledging the Non-Discrimination Coordinator responsibilities as outlined in subsection 5(c) above, together with a signed statement from GDA that it has (1) designated the identified incumbent as the Non-Discrimination Coordinator and that it will (2) oversee the Non-Discrimination Coordinator's responsibilities.

## **6. *Public Participation***

- a. ECRCO recognizes that GDA does not currently administer an environmental permitting program which implicates EPA ECRCO's Public Participation Guidance found at 71 FR 14,207, 14,210 (March 21, 2006). However, should GDA administer such a program in the future, GDA will implement a public involvement process that is available to all persons regardless of race, color, national origin (including LEP), age, disability, and sex; and will develop and implement a public participation policy that contains the following:
  - i. An overview of the Recipient's plan of action for addressing the community's needs and concerns;
  - ii. A description of the historical and demographic background of the community to be included in the public participation process;
  - iii. A contact list of agency officials with phone numbers and email addresses to allow the public to communicate via phone or internet;
  - iv. A detailed plan of action (outreach activities) Recipient will take to address concerns;
  - v. A contingency plan for unexpected events;
  - vi. Location(s) where public meetings may be held; and
  - vii. Contact names for obtaining language assistance services for LEP persons, including, translation of documents and/or interpreters for meetings;

- viii. Appropriate local media contacts (based on the culture and linguistic needs of the community); and
  - ix. Location of the information repository.
- b. Should GDA begin administering environmental permitting programs, within 120 days of doing so GDA will forward to EPA a final draft of its public participation process/procedures for review. EPA will review the draft process/procedures and provide any comments within 60 days of receipt.

## **7. Training**

- a. Within 90 days after implementing the deliverables identified in this Agreement, including fulfilling the requirements for a Non-Discrimination Coordinator, Non-Discrimination Notice, Grievance Procedures, and Public Participation Process/Procedures, GDA will certify that all appropriate staff have been trained on these processes and procedures and on the nature of the federal non-discrimination obligations.
- b. Within 120 days after execution of this Agreement, GDA also will have a plan in place to ensure that such training is a routine part of annual or refresher training to appropriate staff.

## **IV. GENERAL**

- 1. In consideration of GDA's implementation of commitments and actions described in Section III of this Agreement, EPA will end its investigation of the complaint No. 02NO-16-R4 and not issue a decision containing findings on the merits of the complaint.
- 2. EPA will monitor the implementation of the commitments in this Agreement to ensure they are fully implemented. Once the terms of this Agreement are satisfied, EPA will issue a letter documenting closure of its monitoring actions in complaint No. 02NO-16-R4 and closure of the complaint as of the date of that letter.
- 3. EPA will, upon request, provide technical assistance to GDA regarding any of the civil rights obligations previously referenced.
- 4. EPA will review and provide feedback about any documentation submitted by GDA demonstrating completion of each commitment (e.g., evidence of publication of the designation of the Non-Discrimination Coordinator) and will provide an assessment as to whether the documentation satisfies the commitment.



5. GDA will report the completion of each commitment identified under Section III, consistent with the timeframes in Section III, by certified mail to the Director, EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460, within 30 days of the completion by GDA of each commitment.

#### **V. COMPUTATION OF TIME AND NOTICE**

1. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
2. Service of any documents required by this Agreement shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
3. Documents submitted by GDA to EPA shall be sent to the Director, U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
4. Documents submitted by EPA to GDA shall be sent to the Georgia Department of Agriculture, Legal Services Division, 19 Martin Luther King, Jr. Drive, S.W., Atlanta, Georgia 30334.

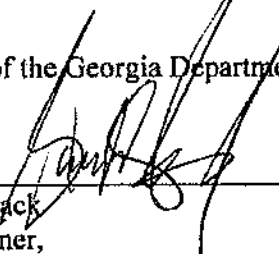
#### **VI. EFFECT OF THE AGREEMENT**

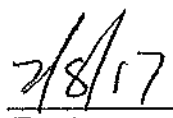
1. GDA understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, GDA understands that during the monitoring of this Agreement, if necessary, EPA may visit GDA, interview staff, and request such additional reports or data as are necessary for EPA to determine whether GDA has fulfilled the terms of this Agreement and is in compliance with the EPA regulation implementing the federal non-discrimination requirements in 40 C.F.R. Part 7, which were at issue in this case.
2. GDA understands that EPA will close its monitoring of this Agreement when EPA determines that GDA has fully implemented this Agreement and that a failure to satisfy any term in this agreement may result in EPA re-opening the investigation.
3. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to GDA's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this

Agreement shall take effect only upon written agreement by the Commissioner of GDA and the Director of EPA.


4. This Agreement constitutes the entire Agreement between GDA and EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by GDA and EPA in accordance with the provisions of Section VI. Paragraph c above.
5. This Agreement does not affect GDA's continuing responsibility to comply with Title VI or other federal non-discrimination laws and the EPA's regulation at 40 CFR Part 7, including § 7.85, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
6. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Commissioner in his capacity as an official of GDA, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of ECRCO has the authority to enter into this Agreement.

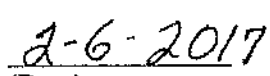
On behalf of the Georgia Department of Agriculture,

  
\_\_\_\_\_  
Gary W. Black  
Commissioner,  
Georgia Department of Agriculture

  
\_\_\_\_\_  
(Date)

On behalf of the U.S. Environmental Protection Agency,

  
\_\_\_\_\_  
Lilian S. Dorka  
Director,  
External Civil Rights Compliance Office, Office of General Counsel  
U.S. Environmental Protection Agency

  
\_\_\_\_\_  
(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

July 6, 2016

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 1994

**In Reply Refer to:**

EPA File No.: 02NO-16-R4

Mr. Eric Olsen  
Pesticide Program Manager  
Georgia Department of Agriculture  
19 Martin Luther King Jr. Drive SW, Room 410  
Atlanta, Georgia 30334

**Re: Acceptance of Administrative Complaint**

Dear Mr. Olsen:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting for investigation an administrative complaint filed against the Georgia Department of Agriculture (GDA) by the Farmworker Rights Division of Georgia Legal Services Program, received by OCR on October 1, 2015. The complaint generally alleges that GDA failed to provide language interpretation services to a national origin minority, limited-English proficient worker during certain important proceedings, in violation of Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.*, and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. (40 C.F.R. § 7.120(d)(1)). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. (C.F.R. § 7.120(b)(1)) Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. (40 C.F.R. § 7.120 (b)(2)) Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. (40 C.F.R. § 7.15)

After careful consideration, OCR has determined that the complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes allegedly discriminatory acts that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory acts occurred within 180 days of the filing of the complaint. And

finally, the complaint was filed against ADEQ, a recipient of EPA financial assistance at the time of the alleged discriminatory acts.

Accordingly, OCR will investigate the following:

Whether GDA's operation of its Worker Protection Standards Program promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136w discriminated against limited English proficient workers including Latino workers, on the basis of national origin, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation.

The decision to investigate the issues above is not a decision on the merits. OCR is a neutral fact finder and will begin its process to gather the relevant information, discuss the matter further with you and the complainant, if appropriate, and determine next steps utilizing its internal procedures. In the intervening time, OCR will provide GDA with an opportunity to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation within thirty (30) calendar days of receiving their copy of the letter. *See* 40 C.F.R. 7.120(d)(1)(ii-iii).

The EPA's nondiscrimination regulation provides that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, offer alternative dispute resolution (ADR) as described at <http://www.epa.gov/ocr/frequently-asked-questions-about-use-alternative-dispute-resolution-resolving-title-vi>. We may be contacting both you and the complainant in the future to discuss your potential interest in pursuing ADR, as well GDA's interest in entering into informal resolution discussions. We invite you to review OCR's Interim Case Resolution Manual at [http://www.epa.gov/sites/production/files/2015-12/documents/ocr\\_crm\\_final.pdf](http://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf) for a fuller explanation of the complaint resolution process. Please provide OCR with the name and contact information of your designated representative at your earliest convenience.

Finally, we would like to remind you that no one may intimidate, threaten, coerce, or engage in other discriminatory conduct against anyone because he or she has either taken action or participated in an action to secure rights protected by the civil rights requirements that we enforce. *See* 40 C.F.R. § 7.100. Any individual alleging such harassment or intimidation may file a complaint with OCR. OCR would investigate such a complaint if the situation warranted.

If you have questions regarding this letter, please contact Samuel Peterson, Case Manager, at 202-564-5393, via electronic mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,

A handwritten signature in black ink, appearing to read "L. S. Dorka", written over a horizontal line.

Lilian S. Dorka  
Acting Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel,  
Civil Rights & Finance Law Office

Ken Lapierre  
Assistant Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 4

Oscar Morales  
Associate Assistant Administrator  
Deputy Civil Rights Official  
U.S. EPA Office of Chemical Safety and Pollution Prevention





**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**WASHINGTON, D.C. 20460**

EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

February 8, 2017

**Return Receipt Requested**

Certified Mail#70153010000112675294

**In Reply Refer to:**

EPA File No. 04-NO-16-R4

Gary W. Black, Commissioner  
Georgia Department of Agriculture  
19 Martin Luther King, Jr. Drive, S.W. Room 227  
Atlanta, Georgia 30334

Dear Commissioner Black:

This letter is to inform you that the U.S. Environmental Protection Agency's (EPA) External Civil Rights Compliance Office (ECRCO) is resolving this complaint based on the enclosed Informal Resolution Agreement (Agreement) entered into between EPA and the Georgia Department of Agriculture (GDA). On July 6, 2016, EPA accepted complaint, No. 02NO-16-R4, which alleged discrimination based on national origin in violation of Title VI and the EPA regulation at 40 C.F.R. Part 7 relating to GDA's alleged failure to provide language interpretation services to a national origin minority, limited English proficient worker during certain important proceedings. Specifically, ECRCO accepted for investigation:

Whether GDA's operation of its Worker Protection Standards Program promulgated under the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), 7 U.S.C. § 136w discriminated against limited English proficient workers including Latino workers, on the basis of national origin, in violation of Title VI of the Civil Rights Act of 1964 and EPA's implementing regulation.

During the course of EPA's investigation, GDA agreed to enter into an Informal Resolution Agreement in order to resolve this complaint.<sup>1</sup> The enclosed Agreement is entered into by GDA and the EPA pursuant to the authority granted to EPA under the federal nondiscrimination laws, including Title VI of the Civil Rights Act of 1964, and EPA regulation found at 40 C.F.R. Part 7. It resolves complaint No. 02NO-16-R4 and additional concerns identified by EPA. It is understood that the Agreement does not constitute an admission by GDA or a finding by EPA of violations of 40 C.F.R. Part 7.

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<sup>1</sup> See ECRCO's Case Resolution Manual regarding informal resolution of complaints, at [https://www.epa.gov/sites/production/files/2017-01/documents/final\\_epa\\_ogc\\_ecrco\\_crm\\_january\\_11\\_2017.pdf](https://www.epa.gov/sites/production/files/2017-01/documents/final_epa_ogc_ecrco_crm_january_11_2017.pdf).

Commissioner Gary W. Black, page 2

The enclosed Agreement does not affect GDA's continuing responsibility to comply with Title VI or other federal non-discrimination laws and EPA's regulation at 40 C.F.R. Part 7, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement. This letter sets forth ECRCO's disposition of the complaint. This letter is not a formal statement of ECRCO policy and should not be relied upon, cited, or construed as such.

ECRCO is committed to working with GDA as it implements the provisions of the Agreement. ECRCO appreciates GDA's cooperation in this matter and its efforts to ensure that GDA has in place the appropriate foundational elements of a non-discrimination program. If you have any questions, please feel free to contact me at (202) 564-9649, by e-mail at [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov), or U.S. mail at U.S. EPA, Office of General Counsel, External Civil Rights Compliance Office (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel

Cc:

Ashley Sellers  
Director of Legal Services  
Georgia Department of Agriculture

Kenneth Redden  
Acting Associate General Counsel  
Civil Rights & Finance Law Office  
U.S. EPA Office of General Counsel

Vicki Tellis  
Acting Assistant Regional Administrator  
Acting Deputy Civil Rights Official  
U.S. EPA Region 4

Enclosure

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHT COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

**AGREEMENT**  
**between the**  
**GEORGIA DEPARTMENT OF AGRICULTURE**  
**and the**  
**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY**  
**ECRCO Complaint No. 02NO-16-R4**

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**I. PURPOSE AND JURISDICTION**

Title VI of the Civil Rights Act of 1964, 42 U.S.C. §§ 2000d to 2000d-7 (Title VI), and United States Environmental Protection Agency's (EPA) regulation at 40 Code of Federal regulations (C.F.R.) Part 7 prohibit discrimination on the basis of race, color, or national origin in any programs or activities receiving federal financial assistance. The Georgia Department of Agriculture (GDA) is a recipient<sup>1</sup> of federal financial assistance from the EPA and is subject to the provisions of Title VI and 40 C.F.R. Part 7.

On July 6, 2016, EPA accepted complaint No. 02NO-16-R4 brought under Title VI and EPA's regulation at 40 C.F.R. Part 7 that alleges discrimination based on race and national origin in violation of Title VI. GDA has agreed to enter into this Informal Resolution Agreement ("Agreement") in order to resolve said complaint.

This Agreement is entered into by the GDA and the EPA's External Civil Rights Compliance Office (ECRCO).

This Agreement is entered into pursuant to the authority granted EPA under the federal non-discrimination laws, including Title VI of the Civil Rights Act of 1964, and EPA regulation found at 40 C.F.R. Part 7. It resolves complaint No. 02NO-16-R4 and additional concerns identified by EPA. It is understood that this Agreement does not constitute an admission by GDA or a finding by EPA of violations of 40 C.F.R. Part 7.

GDA is committed to carrying out its responsibilities in a nondiscriminatory manner, in accordance with the requirements of Title VI and the other federal non-discrimination laws enforced by EPA regulation at 40 C.F.R. Part 7. The activities detailed in Section III of this Agreement, which GDA has voluntarily agreed to undertake and implement, are in furtherance of this commitment.

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<sup>1</sup> Throughout this Agreement, "Recipient" refers to GDA.

## **II. BACKGROUND**

On July 6, 2016, EPA accepted complaint No. 02NO-16-R4. In response to the complaint, EPA initiated an investigation of GDA's compliance with Title VI and the EPA regulation at 40 C.F.R. Part 7. The Agreement herein relates to the resolution of the issue that EPA accepted for investigation in this matter, that GDA's operation of its Worker Protection Standards Program (WPS) promulgated under the Federal Insecticide, Fungicide and Rodenticide Act (FIFRA), 7 U.S.C. § 136w discriminated against limited English proficient (LEP) workers, including Latino workers, on the basis of national origin.

We understand that EPA Region 4 is working with GDA regarding compliance with the WPS unrelated to making the program accessible to limited English proficient communities. This Agreement does not address the efforts undertaken by Region 4 on those substantive WPS issues.

In addition, during the course of the investigation, EPA ECRCO reviewed the requirements of 40 C.F.R. Part 7, Subpart D that are foundational elements of a recipient's non-discrimination program and are required for all recipient programs and activities. These include: the designation of at least one person to coordinate its efforts to comply with its non-discrimination obligations under 40 C.F.R. § 7.85(g); adoption of grievance procedures that assure the prompt and fair resolution of complaints alleging civil rights violations under 40 C.F.R. § 7.90; and, continuing notice of non-discrimination under 40 C.F.R. § 7.95.

## **III. SPECIFIC GDA COMMITMENTS**

**GDA agrees to undertake the following commitments and non-discrimination procedural safeguards.**

It is ECRCO's understanding that GDA is in the process of reviewing the non-discrimination procedural safeguards and taking steps to bring its program into compliance within the timeframe set out below:

### ***1. Access for Persons with Limited-English Proficiency:***

- a. GDA will develop, publish, and implement written procedures to ensure meaningful access to all of GDA's programs and activities by all persons, including access by LEP individuals and individuals with disabilities.
- b. GDA will conduct the appropriate analysis described in EPA's LEP Guidance found at 69 FR 35602 (June 25, 2004) and <http://www.lep.gov> to determine what language services it may need to provide to ensure that LEP individuals can meaningfully participate in the process. GDA should develop a language access plan consistent with the details found in EPA's training module for LEP. <http://www.epa.gov/civilrights/lepaccess.htm>

- c. Within 120 days of the effective date of this Agreement, GDA will forward to EPA a final draft of its written procedures to ensure meaningful access to all of GDA's programs and activities by all persons, including access by persons with LEP. EPA will review the draft procedures and provide any comments within 60 days of receipt.

## ***2. Access for Persons with Disabilities:***

- a. GDA will provide at no cost appropriate auxiliary aids and services including, for example, qualified interpreters to individuals who are deaf or hard of hearing, and to other individuals as necessary to ensure effective communication or an equal opportunity to participate fully in the benefits, activities, programs and services provided by GDA in a timely manner and in such a way as to protect the privacy and independence of the individual.
- b. Within 120 days of the effective date of this Agreement, GDA will forward to EPA a final draft of its written procedures to ensure meaningful access to all of GDA's programs and activities by persons with disabilities. EPA will review the draft procedures and provide any comments within 60 days of receipt.

## ***3. Notice of Non-Discrimination under the Federal Non-Discrimination Statutes<sup>2</sup>***

- a. GDA will post a notice of non-discrimination on the GDA website and in general publications that are distributed to the public. In order to ensure effective communication with the public, GDA will ensure that its notice of non-discrimination is accessible to LEP individuals and individuals with disabilities.
- b. The notice will contain, at a minimum, the following statements:
  - i. GDA does not discriminate on the basis of race, color, national origin, disability, age, or sex in the administration of its programs or activities, as required by applicable laws and regulations.
  - ii. GDA is responsible for coordination of compliance efforts and receipt of inquiries concerning non-discrimination requirements of 40 C.F.R. Part 7 (Non-discrimination in Programs or Activities Receiving Federal Assistance from the Environmental Protection Agency), including Title VI

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<sup>2</sup> Title VI, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, Section 13 of Federal Water Pollution Control Act of 1972, and Title IX of the Education Amendments of 1972 (hereinafter referred to collectively as the federal non-discrimination statutes).

of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973; the Age Discrimination Act of 1975, Title IX of the Education Amendments of 1972, and Section 13 of the Federal Water Pollution Control Act Amendments of 1972.

- iii. If you have any questions about this notice or any of GDA's non-discrimination programs, policies or procedures, you may contact:

[GDA to INSERT NAME]  
Georgia Department of Agriculture  
19 Martin Luther King Jr. Drive, S.W.  
Atlanta, Georgia 30334-4201  
Email address: [insert]

- iv. If you believe that you have been discriminated against with respect to a GDA program or activity, you may contact the Non-Discrimination Coordinator identified above or visit our website at [titlevi@agr.georgia.gov](mailto:titlevi@agr.georgia.gov) or call 404-586-1152, to learn how and where to file a complaint of discrimination.

- c. Within 30 days of the effective date of this Agreement, GDA will publish its notice of non-discrimination on its website as specified above. GDA will begin publishing its notice of non-discrimination in general publications that are distributed to the public within 180 days of the effective date of this Agreement.

#### ***4. Grievance Procedures for Complaints filed under the Federal Non-Discrimination Statutes***

- a. GDA will ensure that it has widely and prominently published its grievance procedures to process discrimination complaints filed under federal non-discrimination statutes, and will review them annually to ensure that they remain up to date, in publication at all times, and prominently online, to allow for prompt and appropriate handling of those discrimination complaints.
- b. The grievance procedures will at a minimum address the following:
  - i. Clearly identify the Non-Discriminator Coordinator, including contact information;
  - ii. Explain the role of the Non-Discrimination Coordinator relative to the coordination and oversight of the grievance procedures;
  - iii. State who may file a complaint under the procedures;



- iv. Describe the grievance process;
  - v. Explain that an appropriate, prompt and impartial investigation of any allegations filed under federal non-discrimination statutes will be conducted;
  - vi. State that the preponderance of the evidence standards will be applied during the analysis of the complaint;
  - vii. Contain assurances that retaliation is prohibited and that claims of retaliation will be handled promptly if it occurs;
  - viii. State that written notice will be promptly provided about the outcome of the investigation, including whether discrimination is found and the description of the investigation process.
- c. Within 120 days of the effective date of this Agreement, GDA will forward to ECRCO a final draft of its grievance procedures for review. ECRCO will review the draft procedures and provide any comments within 60 days of receipt.

#### ***5. Designation of a Non-Discrimination Coordinator***

- a. GDA will ensure that it has designated at least one Non-Discrimination Coordinator to ensure GDA's compliance with the federal non-discrimination statutes.
- b. GDA will ensure the notice and the grievance procedure that it widely publishes contains the title, email address, telephone number, and other contact information of the Non-Discrimination Coordinator. GDA will explain the responsibilities of the Non-Discrimination Coordinator in its grievance procedures adopted pursuant to Section III, Paragraph c., iii of this Agreement.
- c. GDA will ensure that the Non-Discrimination Coordinator's responsibilities include the following:
  - i. Providing information to individuals internally and externally regarding their right to services, aids, benefits, and participation in any GDA program or activity without regard to their race, national origin, color, sex, disability, age or prior opposition to discrimination.
  - ii. Providing notice of GDA's grievance process and the ability to file a discrimination complaint with GDA.

- iii. Maintaining grievance policies and procedures or mechanisms (e.g., an investigation manual) to ensure that all discrimination complaints filed with GDA under federal non-discrimination statutes are processed promptly and appropriately and that meaningful access is provided for persons with LEP and disabilities to GDA programs and activities.
  - iv. Ensuring the tracking of all discrimination complaints filed with GDA under federal non-discrimination statutes including any patterns or systemic problems.
  - v. Conducting a semiannual review of all discrimination complaints filed with the GDA Non-Discrimination Coordinator under federal non-discrimination statutes and/or any other complaints independently investigated by GDA in order to identify and address any patterns or systemic problems.
  - vi. Informing GDA staff regarding the GDA's obligations to comply with federal non-discrimination statutes and serve as a resource on such issues.
  - vii. Ensuring that complainants are updated on the progress of their discrimination complaints filed with GDA under federal non-discrimination statutes and are promptly informed as to any determinations made.
  - viii. Periodically evaluating the efficacy of GDA's efforts to provide services, aids, benefits, and participation in any GDA program or activity without regard to race, national origin, color, sex, disability, age or prior opposition to discrimination.
  - ix. Ensuring appropriate training in the formal and informal processes available to resolve complaints filed under federal non-discrimination statutes.
  - x. Providing or procuring appropriate services to ensure GDA employees are appropriately trained on GDA non-discrimination policies and procedures, as well as the nature of the federal non-discrimination obligations.
- d. The Non-Discrimination Coordinator will not have other responsibilities that create a conflict of interest (e.g., serving as the Non-Discrimination Coordinator as well GDA legal advisor or representative on civil rights issues).



- e. Within 60 days of the effective date of this Agreement, GDA will have designated a Non-Discrimination Coordinator and provided appropriate public notice of such as specified above.
- f. Within 30 days of appointment of a Non-Discrimination Coordinator, GDA will forward to ECRCO proof that it has designated a Non-Discrimination Coordinator and that the Non-Discrimination Coordinator has assumed the responsibilities identified in subsection 5(c) above. As proof, ECRCO will accept from GDA a signed statement from the incumbent acknowledging the Non-Discrimination Coordinator responsibilities as outlined in subsection 5(c) above, together with a signed statement from GDA that it has (1) designated the identified incumbent as the Non-Discrimination Coordinator and that it will (2) oversee the Non-Discrimination Coordinator's responsibilities.

## **6. *Public Participation***

- a. ECRCO recognizes that GDA does not currently administer an environmental permitting program which implicates EPA ECRCO's Public Participation Guidance found at 71 FR 14,207, 14,210 (March 21, 2006). However, should GDA administer such a program in the future, GDA will implement a public involvement process that is available to all persons regardless of race, color, national origin (including LEP), age, disability, and sex; and will develop and implement a public participation policy that contains the following:
  - i. An overview of the Recipient's plan of action for addressing the community's needs and concerns;
  - ii. A description of the historical and demographic background of the community to be included in the public participation process;
  - iii. A contact list of agency officials with phone numbers and email addresses to allow the public to communicate via phone or internet;
  - iv. A detailed plan of action (outreach activities) Recipient will take to address concerns;
  - v. A contingency plan for unexpected events;
  - vi. Location(s) where public meetings may be held; and
  - vii. Contact names for obtaining language assistance services for LEP persons, including, translation of documents and/or interpreters for meetings;

- viii. Appropriate local media contacts (based on the culture and linguistic needs of the community); and
  - ix. Location of the information repository.
- b. Should GDA begin administering environmental permitting programs, within 120 days of doing so GDA will forward to EPA a final draft of its public participation process/procedures for review. EPA will review the draft process/procedures and provide any comments within 60 days of receipt.

#### **7. Training**

- a. Within 90 days after implementing the deliverables identified in this Agreement, including fulfilling the requirements for a Non-Discrimination Coordinator, Non-Discrimination Notice, Grievance Procedures, and Public Participation Process/Procedures, GDA will certify that all appropriate staff have been trained on these processes and procedures and on the nature of the federal non-discrimination obligations.
- b. Within 120 days after execution of this Agreement, GDA also will have a plan in place to ensure that such training is a routine part of annual or refresher training to appropriate staff.

### **IV. GENERAL**

- 1. In consideration of GDA's implementation of commitments and actions described in Section III of this Agreement, EPA will end its investigation of the complaint No. 02NO-16-R4 and not issue a decision containing findings on the merits of the complaint.
- 2. EPA will monitor the implementation of the commitments in this Agreement to ensure they are fully implemented. Once the terms of this Agreement are satisfied, EPA will issue a letter documenting closure of its monitoring actions in complaint No. 02NO-16-R4 and closure of the complaint as of the date of that letter.
- 3. EPA will, upon request, provide technical assistance to GDA regarding any of the civil rights obligations previously referenced.
- 4. EPA will review and provide feedback about any documentation submitted by GDA demonstrating completion of each commitment (e.g., evidence of publication of the designation of the Non-Discrimination Coordinator) and will provide an assessment as to whether the documentation satisfies the commitment.

5. GDA will report the completion of each commitment identified under Section III, consistent with the timeframes in Section III, by certified mail to the Director, EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460, within 30 days of the completion by GDA of each commitment.

#### **V. COMPUTATION OF TIME AND NOTICE**

1. As used in this Agreement, "day" shall mean a calendar day. In computing any period of time under this Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business of the next working day.
2. Service of any documents required by this Agreement shall be made personally, by certified mail with return receipt requested, or by any reliable commercial delivery service that provides written verification of delivery.
3. Documents submitted by GDA to EPA shall be sent to the Director, U.S. EPA Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue N.W., Washington D.C. 20460.
4. Documents submitted by EPA to GDA shall be sent to the Georgia Department of Agriculture, Legal Services Division, 19 Martin Luther King, Jr. Drive, S.W., Atlanta, Georgia 30334.

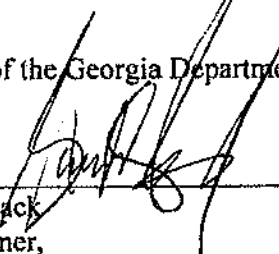
#### **VI. EFFECT OF THE AGREEMENT**

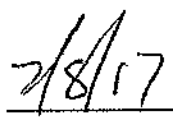
1. GDA understands that by signing this Agreement, it agrees to provide data and other information in a timely manner in accordance with the reporting requirements of this Agreement. Further, GDA understands that during the monitoring of this Agreement, if necessary, EPA may visit GDA, interview staff, and request such additional reports or data as are necessary for EPA to determine whether GDA has fulfilled the terms of this Agreement and is in compliance with the EPA regulation implementing the federal non-discrimination requirements in 40 C.F.R Part 7, which were at issue in this case.
2. GDA understands that EPA will close its monitoring of this Agreement when EPA determines that GDA has fully implemented this Agreement and that a failure to satisfy any term in this agreement may result in EPA re-opening the investigation.
3. If either Party desires to modify any portion of this Agreement because of changed conditions making performance impractical or impossible, or due to material change to GDA's program or authorities, or for other good cause, the Party seeking a modification shall promptly notify the other in writing, setting forth the facts and circumstance justifying the proposed modification. Any modification(s) to this

Agreement shall take effect only upon written agreement by the Commissioner of GDA and the Director of EPA.

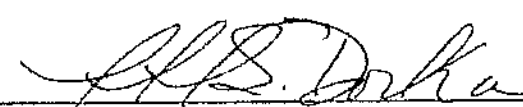
4. This Agreement constitutes the entire Agreement between GDA and EPA regarding the matters addressed herein, and no other statement, promise, or agreement, made by any other person shall be construed to change any commitment or term of this Agreement, except as specifically agreed to by GDA and EPA in accordance with the provisions of Section VI. Paragraph c above.
5. This Agreement does not affect GDA's continuing responsibility to comply with Title VI or other federal non-discrimination laws and the EPA's regulation at 40 CFR Part 7, including § 7.85, nor does it affect EPA's investigation of any Title VI or other federal civil rights complaints or address any other matter not covered by this Agreement.
6. The effective date of this Agreement is the date by which both Parties have signed the Agreement. This Agreement may be signed in counterparts. The Commissioner in his capacity as an official of GDA, has the authority to enter into this Agreement for purposes of carrying out the activities listed in these paragraphs. The Director of ECRCO has the authority to enter into this Agreement.

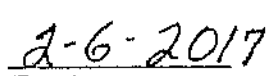
On behalf of the Georgia Department of Agriculture,

  
\_\_\_\_\_  
Gary W. Black  
Commissioner,  
Georgia Department of Agriculture

  
\_\_\_\_\_  
(Date)

On behalf of the U.S. Environmental Protection Agency,

  
\_\_\_\_\_  
Lilian S. Dorka  
Director,  
External Civil Rights Compliance Office, Office of General Counsel  
U.S. Environmental Protection Agency

  
\_\_\_\_\_  
(Date)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 05 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail# 7009 2820 0002 1759 1599

**In Reply Refer to:**

EPA File Nos. 01R-15-R4  
04R-15-R4

Colonel Jefferson Dunn  
Commissioner, Alabama Department of Corrections  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, Alabama 36130-1501

**Re: Rejection and Referral of Administrative Complaint**

Dear Col. Dunn:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is rejecting two complaints from an inmate (Complainant) incarcerated in the Alabama Department of Corrections. Two EPA correspondence, informing the Alabama Department of Corrections of this fact, were refused and returned to the EPA. Please consider the enclosed as addressed to your office. Additionally, OCR is rejecting and referring this correspondence to the Department of Justice's (DOJ) Civil Rights Division for the reasons detailed therein.

If you have any questions about EPA's decision to refer the matter to DOJ, please contact Helena Wooden-Aguilar, Assistant Director, External Compliance Program at (202) 564-0792, [Wooden-Aguilar.Helena@epa.gov](mailto:Wooden-Aguilar.Helena@epa.gov), or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,

A handwritten signature in blue ink, reading "Velveta Golightly-Howell", is positioned above the typed name.

Velveta Golightly-Howell  
Director, EPA OCR

Enclosures (2)

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Kenneth Lapierre  
Deputy Civil Rights Official  
U.S. EPA Region IV  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(MC 9T25)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail # 7004 1160 0002 3622 6819

**In Reply Refer to:**

EPA File No. 02R-15-R3

Lawrence J. Joseph  
Law Office of Lawrence J. Joseph  
1250 Connecticut Avenue, N.W.  
Suite 200  
Washington, D.C. 20036

**Re: Rejection of Administrative Complaint**

Dear Mr. Joseph:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), has reviewed your electronic correspondence dated January 23, 2015. Because the OCR is responsible for processing complaints alleging a violation of Title VI of the Civil Rights Act of 1961, as amended (Title VI), 42 U.S.C. §§2000d, *et. seq.*, and its implementing regulations, 40 Code of Federal Regulations (C.F.R.) Part 7, the OCR is treating the correspondence as a complaint for purposes of assessing Title VI jurisdiction. Your complaint contains allegations that the Department of Public Works (DPW) of Baltimore County, Maryland, discriminated against African Americans by failing to provide them with adequate curbing and sewer infrastructure, as compared to residents of a nearby Caucasian neighborhood.

Pursuant to the EPA's nondiscrimination administrative regulations, the OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to the appropriate Agency. *See* 40 C.F.R. § 7.120(d)(1). For a complaint to be accepted for investigation, the complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *See* 40 C.F.R. § 7.120(b)(1). Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. For your reference, we have enclosed a copy of the EPA's nondiscrimination regulations.



After careful review, the OCR is rejecting the resident's complaint because the allegations described therein do not meet the EPA's jurisdictional requirements. That is to be accepted for investigation, the complaint must be filed against a recipient of the EPA's financial assistance that allegedly committed the discriminatory act(s). The DPW is not a current recipient of EPA financial assistance. Therefore, the OCR finds that it lacks jurisdiction to investigate your complaint, and accordingly must reject the complaint.

If you have questions about this letter, please contact Samuel Peterson at (202) 564-5393 or via electronic mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov).

Sincerely,



Velveta Golightly-Howell  
Director

Enclosure (1)

cc: Elise Packard  
Associate General Counsel  
Civil Rights and Finance Law Office  
(MC 2399A)

William Early  
Deputy Civil Rights  
Official, U.S. EPA Region 3  
(MC 3DA00)

# **PART 7—NONDISCRIMINATION IN PROGRAMS RECEIVING FEDERAL ASSISTANCE FROM THE ENVI- RONMENTAL PROTECTION AGENCY**

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## **APPENDIX A TO PART 7—EPA ASSISTANCE PROGRAMS AS LISTED IN THE "CATALOG OF FEDERAL DOMES- TIC ASSISTANCE"**

**AUTHORITY:** 42 U.S.C. 2000d to 2000d-4; 29 U.S.C.  
794; 33 U.S.C. 1251 (b).

**SOURCE:** 49 FR 1639, Jan. 12, 1984, unless otherwise  
noted.

## **Subpart A—General**

### **§ 7.10 Purpose of this part.**

This part implements: Title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; and section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, (collectively, the Acts).

### **§ 7.15 Applicability.**

This part applies to all applicants for, and recipients of, EPA assistance in the operation of programs or activities receiving such assistance beginning February 13, 1984. New construction (§ 7.70) for which design was initiated prior to February 13, 1984, shall comply with the accessibility requirements in the Department of Health, Education and Welfare (now the Department of Health and Human Services) nondiscrimination regulation, 45 CFR 84.23, issued June 3, 1977, or with equivalent standards that ensure the facility is readily accessible to and usable by handicapped persons. Such assistance includes but is not limited to that which is listed in the *Catalogue of Federal Domestic Assistance* under the 66.000 series. It supersedes the provisions of former 40 CFR parts 7 and 12.

### **§ 7.20 Responsible agency officers.**

(a) The EPA Office of Civil Rights (OCR) is responsible for developing and administering EPA's compliance programs under the Acts.

(b) EPA's Project Officers will, to the extent possible, be available to explain to each recipient its obligations under this part and to provide recipients with technical assistance or guidance upon request.

### **§ 7.25 Definitions.**

As used in this part:

*Administrator* means the Administrator of EPA. It includes any other agency official authorized to act on his or her behalf, unless explicitly stated otherwise.

*Alcohol abuse* means any misuse of alcohol which demonstrably interferes with a person's health, interpersonal relations or working ability.

*Applicant* means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance (see definition for *EPA assistance*).

*Assistant Attorney General* is the head of the Civil Rights Division, U.S. Department of Justice.

*Award Official* means the EPA official with the authority to approve and execute assistance agreements and to take other assistance related actions

## § 7.25

authorized by this part and by other EPA regulations or delegation of authority.

### *Drug abuse means:*

(a) The use of any drug or substance listed by the Department of Justice in 21 CFR 1308.11, under authority of the Controlled Substances Act, 21 U.S.C. 801, as a controlled substance unavailable for prescription because:

- (1) The drug or substance has a high potential for abuse;
- (2) The drug or other substance has no currently accepted medical use in treatment in the United States; or
- (3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

**NOTE:** Examples of drugs under paragraph (a)(1) of this section include certain opiates and opiate derivatives (e.g., heroin) and hallucinogenic substances (e.g., marijuana, mescaline, psycote) and depressants (e.g., methaqualone). Examples of (a)(2) include opium, coca leaves, methadone, amphetamines and barbiturates.

(b) The misuse of any drug or substance listed by the Department of Justice in 21 CFR 1308.12-1308.15 under authority of the Controlled Substances Act as a controlled substance available for prescription.

*EPA* means the United States Environmental Protection Agency.

*EPA assistance* means any grant or cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which EPA provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of personnel; or
- (3) Real or personal property or any interest in or use of such property, including:
  - (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and
  - (ii) Proceeds from a subsequent transfer or lease of such property if EPA's share of its fair market value is not returned to EPA.

*Facility* means all, or any part of, or any interests in structures, equipment, roads, walks, parking lots, or other real or personal property.

### *Handicapped person:*

(a) *Handicapped person* means any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. For purposes of employment, the term *handicapped person* does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose

employment, by reason of such current drug or alcohol abuse, would constitute a direct threat to property or the safety of others.

(b) As used in this paragraph, the phrase:

(1) *Physical or mental impairment* means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hernic and lymphatic; skin; and endocrine; and (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

- (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;
- (ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- (iii) Has none of the impairments defined above but is treated by a recipient as having such an impairment.

*Office of Civil Rights* or OCR means the Director of the Office of Civil Rights, EPA Headquarters or his/her designated representative.

*Project Officer* means the EPA official designated in the assistance agreement (as defined in *EPA assistance*) as EPA's program contact with the recipient; Project Officers are responsible for monitoring the project.

### *Qualified handicapped person means:*

(a) With respect to employment: A handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.

(b) With respect to services: A handicapped person who meets the essential eligibility requirements for the receipt of such services.

### *Racial classifications:*<sup>1</sup>

<sup>1</sup> Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis. Subparagraphs (a) through (c) are in conformity with Directive 15 of the Office of Federal Statistical Policy and Standards, whose function is now in the Office of Information and Regulatory Affairs, Office of Management and Budget. Should

(a) *American Indian or Alaskan native.* A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(b) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(c) *Black and not of Hispanic origin.* A person having origins in any of the black racial groups of Africa.

(d) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

(e) *White, not of Hispanic origin.* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Recipient* means, for the purposes of this regulation, any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

*Section 13* refers to section 13 of the Federal Water Pollution Control Act Amendments of 1972.

*United States* includes the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and all other territories and possessions of the United States; the term *State* includes any one of the foregoing.

## Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin or Sex

### § 7.30 General prohibition.

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, or on the basis of sex in any program or activity receiving EPA assistance under the Federal Water Pollution Control Act, as amended, including the Environmental Financing Act of 1972.

that office, or any successor office, change or otherwise amend the categories listed in Directive 15, the categories in this paragraph shall be interpreted to conform with any such changes or amendments.

### § 7.35 Specific prohibitions.

(a) As to any program or activity receiving EPA assistance, a recipient shall not directly or through contractual, licensing, or other arrangements on the basis of race, color, national origin or, if applicable, sex:

(1) Deny a person any service, aid or other benefit of the program;

(2) Provide a person any service, aid or other benefit that is different, or is provided differently from that provided to others under the program;

(3) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid, or benefit provided by the program;

(4) Subject a person to segregation in any manner or separate treatment in any way related to receiving services or benefits under the program;

(5) Deny a person or any group of persons the opportunity to participate as members of any planning or advisory body which is an integral part of the program, such as a local sanitation board or sewer authority;

(6) Discriminate in employment on the basis of sex in any program subject to section 13, or on the basis of race, color, or national origin in any program whose purpose is to create employment; or, by means of employment discrimination, deny intended beneficiaries the benefits of the EPA assistance program, or subject the beneficiaries to prohibited discrimination.

(7) In administering a program or activity receiving Federal financial assistance in which the recipient has previously discriminated on the basis of race, color, sex, or national origin, the recipient shall take affirmative action to provide remedies to those who have been injured by the discrimination.

(b) A recipient shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.

(c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

(d) The specific prohibitions of discrimination enumerated above do not limit the general prohibition of § 7.30.

## § 7.45

### Subpart C—Discrimination Prohibited on the Basis of Handicap

#### § 7.45 General prohibition.

No qualified handicapped person shall solely on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving EPA assistance.

#### § 7.50 Specific prohibitions against discrimination.

(a) A recipient, in providing any aid, benefit or service under any program or activity receiving EPA assistance shall not, on the basis of handicap, directly or through contractual, licensing, or other arrangement:

(1) Deny a qualified handicapped person any service, aid or other benefit of a federally assisted program;

(2) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(3) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an entity that discriminates on the basis of handicap in providing aids, benefits, or services to beneficiaries of the recipient's program;

(4) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(5) Limit a qualified handicapped person in any other way in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service from the program.

(b) A recipient may not, in determining the site or location of a facility, make selections: (1) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from EPA assistance or (2) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity receiving EPA assistance with respect to handicapped persons.

(c) A recipient shall not use criteria or methods of administering any program or activity receiving EPA assistance which have the effect of subjecting individuals to discrimination because of their handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives

of such program or activity with respect to handicapped persons.

(d) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(e) The exclusion of non-handicapped persons or specified classes of handicapped persons from programs limited by Federal statute or Executive Order to handicapped persons or a different class of handicapped persons is not prohibited by this subpart.

#### § 7.55 Separate or different programs.

Recipients shall not deny a qualified handicapped person an opportunity equal to that afforded others to participate in or benefit from the aid, benefit, or service in the program receiving EPA assistance. Recipients shall administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons.

#### § 7.60 Prohibitions and requirements relating to employment.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from Federal assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur, and shall not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; or

(9) Any other term, condition, or privilege of employment.

(d) A recipient shall not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(e) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(f) A recipient shall not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(g) A recipient shall not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except as permitted by the Department of Justice in 28 CFR 42.513.

#### § 7.65 Accessibility.

(a) *General.* A recipient shall operate each program or activity receiving EPA assistance so that such program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not:

(1) Necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(2) Require a recipient to take any action that the recipient can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such financial and administrative burdens, the recipient shall be required to take any other action that would not result in such an alteration or financial and administrative burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity receiving EPA assistance.

(b) *Methods of making existing programs accessible.* A recipient may comply with the accessibility requirements of this section by making structural changes, redesigning equipment, reassigning services to accessible buildings, assigning aides to beneficiaries, or any other means that make its program or activity accessible to handicapped persons.

In choosing among alternatives, a recipient must give priority to methods that offer program benefits to handicapped persons in the most integrated setting appropriate.

(c) *Deadlines.* (1) Except where structural changes in facilities are necessary, recipients must adhere to the provisions of this section within 60 days after the effective date of this part.

(2) Recipients having an existing facility which does require alterations in order to make a program or activity accessible must prepare a transition plan in accordance with § 7.75 within six months from the effective date of this part. The recipient must complete the changes as soon as possible, but not later than three years from date of award.

(d) *Notice of accessibility.* The recipient must make sure that interested persons, including those with impaired vision or hearing, can find out about the existence and location of the assisted program services, activities, and facilities that are accessible to and usable by handicapped persons.

(e) *Structural and financial feasibility.* This section does not require structural alterations to existing facilities if making such alterations would not be structurally or financially feasible. An alteration is not structurally feasible when it has little likelihood of being accomplished without removing or altering a load-bearing structural member. Financial feasibility shall take into account the degree to which the alteration work is to be assisted by EPA assistance, the cost limitations of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in manners consistent and inconsistent with accessibility.

#### § 7.70 New construction.

(a) *General.* New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3-8 of the Uniform Federal Accessibility Standards (UFAS) (appendix A to 41 CFR subpart 101-19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical

## § 7.75

rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

[49 FR 1659, Jan. 12, 1984, as amended at 55 FR 52138, 52142, Dec. 19, 1990]

### § 7.75 Transition plan.

If structural changes to facilities are necessary to make the program accessible to handicapped persons, a recipient must prepare a transition plan.

(a) *Requirements.* The transition plan must set forth the steps needed to complete the structural changes required and must be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. At a minimum, the transition plan must:

(1) Identify the physical obstacles in the recipient's facilities that limit handicapped persons' access to its program or activity;

(2) Describe in detail what the recipient will do to make the facilities accessible;

(3) Specify the schedule for the steps needed to achieve full program accessibility, and include a year-by-year timetable if the process will take more than one year;

(4) Indicate the person responsible for carrying out the plan.

(b) *Availability.* Recipients shall make available a copy of the transition plan to the OCR upon request and to the public for inspection at either the site of the project or at the recipient's main office.

## Subpart D—Requirements for Applicants and Recipients

### § 7.80 Applicants.

(a) *Assurances—(i) General.* Applicants for EPA assistance shall submit an assurance with their applications stating that, with respect to their programs or activities that receive EPA assistance, they will comply with the requirements of this part. Applicants must also submit any other information that the OCR determines is necessary for preaward review. The applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance and this part.

(2) *Duration of assurance—(i) Real property.* When EPA awards assistance in the form of real property, or assistance to acquire real property, or structures on the property, the assurance will obligate the recipient, or transferee, during the period

the real property or structures are used for the purpose for which EPA assistance is extended, or for another purpose in which similar services or benefits are provided. The transfer instrument shall contain a covenant running with the land which assures nondiscrimination. Where applicable, the covenant shall also retain a right of reverter which will permit EPA to recover the property if the covenant is ever broken.

(ii) *Personal property.* When EPA provides assistance in the form of personal property, the assurance will obligate the recipient for so long as it continues to own or possess the property.

(iii) *Other forms of assistance.* In all other cases, the assurance will obligate the recipient for as long as EPA assistance is extended.

(b) *Wastewater treatment project.* EPA Form 4700-4 shall also be submitted with applications for assistance under Title II of the Federal Water Pollution Control Act.

(c) *Compliance information.* Each applicant for EPA assistance shall submit regarding the program or activity that would receive EPA assistance:

(1) Notice of any lawsuit pending against the applicant alleging discrimination on the basis of race, color, sex, handicap, or national origin;

(2) A brief description of any applications pending to other federal agencies for assistance, and of Federal assistance being provided at the time of the application; and

(3) A statement describing any civil rights compliance reviews regarding the applicant conducted during the two-year period before the application, and information concerning the agency or organization performing the reviews.

(Approved by the Office of Management and Budget under control number 2060-0006)

### § 7.85 Recipients.

(a) *Compliance information.* Each recipient shall collect, maintain, and on request of the OCR, provide the following information to show compliance with this part:

(1) A brief description of any lawsuits pending against the recipient that allege discrimination which this part prohibits;

(2) Racial/ethnic, national origin, sex and handicap data, or EPA Form 4700-4 information submitted with its application;

(3) A log of discrimination complaints which identifies the complaint, the date it was filed, the date the recipient's investigation was completed, the disposition, and the date of disposition; and

(4) Reports of any compliance reviews conducted by any other agencies.

(b) *Additional compliance information.* If necessary, the OCR may require recipients to submit data and information specific to certain programs to determine compliance where there is reason to



believe that discrimination may exist in a program or activity receiving EPA assistance or to investigate a complaint alleging discrimination in a program or activity receiving EPA assistance. Requests shall be limited to data and information which is relevant to determining compliance and shall be accompanied by a written statement summarizing the complaint or setting forth the basis for the belief that discrimination may exist.

(c) *Self-evaluation.* Each recipient must conduct a self-evaluation of its administrative policies and practices, to consider whether such policies and practices may involve handicap discrimination prohibited by this part. When conducting the self-evaluation, the recipient shall consult with interested and involved persons including handicapped persons or organizations representing handicapped persons. The evaluation shall be completed within 18 months after the effective date of this part.

(d) *Preparing compliance information.* In preparing compliance information, a recipient must:

(1) [Reserved]

(2) Use the racial classifications set forth in § 7.25 in determining categories of race, color or national origin.

(c) *Maintaining compliance information.* Recipients must keep records for paragraphs (a) and (b) of this section for three (3) years after completing the project. When any complaint or other action for alleged failure to comply with this part is brought before the three-year period ends, the recipient shall keep records until the complaint is resolved.

(f) *Accessibility to compliance information.* A recipient shall:

(1) Give the OCR access during normal business hours to its books, records, accounts and other sources of information, including its facilities, as may be pertinent to ascertain compliance with this part;

(2) Make compliance information available to the public upon request; and

(3) Assist in obtaining other required information that is in the possession of other agencies, institutions, or persons not under the recipient's control. If such party refuses to release that information, the recipient shall inform the OCR and explain its efforts to obtain the information.

(g) *Coordination of compliance effort.* If the recipient employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under this part.

(Approved by the Office of Management and Budget under control number 2000-8006)

### § 7.90 Grievance procedures.

(a) *Requirements.* Each recipient shall adopt grievance procedures that assure the prompt and

fair resolution of complaints which allege violation of this part.

(b) *Exception.* Recipients with fewer than fifteen (15) full-time employees need not comply with this section unless the OCR finds a violation of this part or determines that creating a grievance procedure will not significantly impair the recipient's ability to provide benefits or services.

### § 7.95 Notice of nondiscrimination.

(a) *Requirements.* A recipient shall provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, or handicap in a program or activity receiving EPA assistance or, in programs covered by section 13, on the basis of sex. Methods of notice must accommodate those with impaired vision or hearing. At a minimum, this notice must be posted in a prominent place in the recipient's offices or facilities. Methods of notice may also include publishing in newspapers and magazines, and placing notices in recipient's internal publications or on recipient's printed letterhead. Where appropriate, such notice must be in a language or languages other than English. The notice must identify the responsible employee designated in accordance with § 7.85.

(b) *Deadline.* Recipients of assistance must provide initial notice by thirty (30) calendar days after award and continuing notice for the duration of EPA assistance.

### § 7.100 Intimidation and retaliation prohibited.

No applicant, recipient, nor other person shall intimidate, threaten, coerce, or discriminate against any individual or group, either:

(a) For the purpose of interfering with any right or privilege guaranteed by the Acts or this part, or

(b) Because the individual has filed a complaint or has testified, assisted or participated in any way in an investigation, proceeding or hearing under this part, or has opposed any practice made unlawful by this regulation.

## Subpart E—Agency Compliance Procedures

### § 7.105 General policy.

EPA's Administrator, Director of the Office of Civil Rights, Project Officers and other responsible officials shall seek the cooperation of applicants and recipients in securing compliance with this part, and are available to provide help.

### § 7.110 Preaward compliance.

(a) *Review of compliance information.* Within EPA's application processing period, the OCR will

### § 7.115

determine whether the applicant is in compliance with this part and inform the Award Official. This determination will be based on the submissions required by § 7.80 and any other information EPA receives during this time (including complaints) or has on file about the applicant. When the OCR cannot make a determination on the basis of this information, additional information will be requested from the applicant, local government officials, or interested persons or organizations, including handicapped persons or organizations representing such persons. The OCR may also conduct an on-site review only when it has reason to believe discrimination may be occurring in a program or activity which is the subject of the application.

(b) *Voluntary compliance.* If the review indicates noncompliance, an applicant may agree in writing to take the steps the OCR recommends to come into compliance with this part. The OCR must approve the written agreement before any award is made.

(c) *Refusal to comply.* If the applicant refuses to enter into such an agreement, the OCR shall follow the procedure established by paragraph (b) of § 7.130.

### § 7.115 Postaward compliance.

(a) *Periodic review.* The OCR may periodically conduct compliance reviews of any recipient's programs or activities receiving EPA assistance, including the request of data and information, and may conduct on-site reviews when it has reason to believe that discrimination may be occurring in such programs or activities.

(b) *Notice of review.* After selecting a recipient for review or initiating a complaint investigation in accordance with § 7.120, the OCR will inform the recipient of:

(1) The nature of and schedule for review, or investigation; and

(2) Its opportunity, before the determination in paragraph (d) of this section is made, to make a written submission responding to, rebutting, or denying the allegations raised in the review or complaint.

(c) *Postreview notice.* (1) Within 180 calendar days from the start of the compliance review or complaint investigation, the OCR will notify the recipient in writing by certified mail, return receipt requested, of:

(i) Preliminary findings;

(ii) Recommendations, if any, for achieving voluntary compliance; and

(iii) Recipient's right to engage in voluntary compliance negotiations where appropriate.

(2) The OCR will notify the Award Official and the Assistant Attorney General for Civil Rights of the preliminary findings of noncompliance.

(d) *Formal determination of noncompliance.* After receiving the notice of the preliminary finding of noncompliance in paragraph (c) of this section, the recipient may:

(1) Agree to the OCR's recommendations, or

(2) Submit a written response sufficient to demonstrate that the preliminary findings are incorrect, or that compliance may be achieved through steps other than those recommended by OCR.

If the recipient does not take one of these actions within fifty (50) calendar days after receiving this preliminary notice, the OCR shall, within fourteen (14) calendar days, send a formal written determination of noncompliance to the recipient and copies to the Award Official and Assistant Attorney General.

(e) *Voluntary compliance time limits.* The recipient will have ten (10) calendar days from receipt of the formal determination of noncompliance in which to come into voluntary compliance. If the recipient fails to meet this deadline, the OCR must start proceedings under paragraph (b) of § 7.130.

(f) *Form of voluntary compliance agreements.* All agreements to come into voluntary compliance must:

(1) Be in writing;

(2) Set forth the specific steps the recipient has agreed to take, and

(3) Be signed by the Director, OCR or his/her designee and an official with authority to legally bind the recipient.

### § 7.120 Complaint investigations.

The OCR shall promptly investigate all complaints filed under this section unless the complainant and the party complained against agree to a delay pending settlement negotiations.

(a) *Who may file a complaint.* A person who believes that he or she or a specific class of persons has been discriminated against in violation of this part may file a complaint. The complaint may be filed by an authorized representative. A complaint alleging employment discrimination must identify at least one individual aggrieved by such discrimination. Complaints solely alleging employment discrimination against an individual on the basis of race, color, national origin, sex or religion shall be processed under the procedures for complaints of employment discrimination filed against recipients of federal assistance (see 28 CFR part 42, subpart H and 29 CFR part 1691). Complainants are encouraged but not required to make use of any grievance procedure established under § 7.90 before filing a complaint. Filing a complaint through a grievance procedure does not extend the 180 day calendar requirement of paragraph (b)(2) of this section.

(b) *Where, when and how to file complaint.* The complainant may file a complaint at any EPA of-

lice. The complaint may be referred to the region in which the alleged discriminatory acts occurred.

(1) The complaint must be in writing and it must describe the alleged discriminatory acts which violate this part.

(2) The complaint must be filed within 180 calendar days of the alleged discriminatory acts, unless the OCR waives the time limit for good cause. The filing of a grievance with the recipient does not satisfy the requirement that complaints must be filed within 180 days of the alleged discriminatory acts.

(c) *Notification.* The OCR will notify the complainant and the recipient of the agency's receipt of the complaint within five (5) calendar days.

(d) *Complaint processing procedures.* After acknowledging receipt of a complaint, the OCR will immediately initiate complaint processing procedures.

(1) *Preliminary investigation.* (i) Within twenty (20) calendar days of acknowledgment of the complaint, the OCR will review the complaint for acceptance, rejection, or referral to the appropriate Federal agency.

(ii) If the complaint is accepted, the OCR will notify the complainant and the Award Official. The OCR will also notify the applicant or recipient complained against of the allegations and give the applicant or recipient opportunity to make a written submission responding to, rebutting, or denying the allegations raised in the complaint.

(iii) The party complained against may send the OCR a response to the notice of complaint within thirty (30) calendar days of receiving it.

(2) *Informal resolution.* (i) OCR shall attempt to resolve complaints informally whenever possible. When a complaint cannot be resolved informally, OCR shall follow the procedures established by paragraphs (c) through (e) of § 7.115.

(e) *Confidentiality.* EPA agrees to keep the complainant's identity confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Ordinarily in complaints of employment discrimination, the name of the complainant will be given to the recipient with the notice of complaint.

(f) [Reserved]

(g) *Dismissal of complaint.* If OCR's investigation reveals no violation of this part, the Director, OCR, will dismiss the complaint and notify the complainant and recipient.

#### § 7.125 Coordination with other agencies.

If, in the conduct of a compliance review or an investigation, it becomes evident that another agency has jurisdiction over the subject matter, OCR will cooperate with that agency during the

continuation of the review of investigation. EPA will:

(a) Coordinate its efforts with the other agency, and

(b) Ensure that one of the agencies is designated the lead agency for this purpose. When an agency other than EPA serves as the lead agency, any action taken, requirement imposed, or determination made by the lead agency, other than a final determination to terminate funds, shall have the same effect as though such action had been taken by EPA.

#### § 7.130 Actions available to EPA to obtain compliance.

(a) General. If compliance with this part cannot be assured by informal means, EPA may terminate or refuse to award or to continue assistance. EPA may also use any other means authorized by law to get compliance, including a referral of the matter to the Department of Justice.

(b) Procedure to deny, annul, suspend or terminate EPA assistance.

(1) *OCR finding.* If OCR determines that an applicant or recipient is not in compliance with this part, and if compliance cannot be achieved voluntarily, OCR shall make a finding of noncompliance. The OCR will notify the applicant or recipient (by registered mail, return receipt requested) of the finding, the action proposed to be taken, and the opportunity for an evidentiary hearing.

(2) *Hearing.* (i) Within 30 days of receipt of the above notice, the applicant or recipient shall file a written answer, under oath or affirmation, and may request a hearing.

(ii) The answer and request for a hearing shall be sent by registered mail, return receipt requested, to the Chief Administrative Law Judge (ALJ) (A-110), United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Upon receipt of a request for a hearing, the ALJ will send the applicant or recipient a copy of the ALJ's procedures. If the recipient does not request a hearing, it shall be deemed to have waived its right to a hearing, and the OCR finding shall be deemed to be the ALJ's determination.

(3) *Final decision and disposition.* (i) The applicant or recipient may, within 30 days of receipt of the ALJ's determination, file with the Administrator its exceptions to that determination. When such exceptions are filed, the Administrator may, within 45 days after the ALJ's determination, serve to the applicant or recipient, a notice that he/she will review the determination. In the absence of either exceptions or notice of review, the ALJ's determination shall constitute the Administrator's final decision.

## § 7.135

(ii) If the Administrator reviews the ALJ's determination, all parties shall be given reasonable opportunity to file written statements. A copy of the Administrator's decision will be sent to the applicant or recipient.

(iii) If the Administrator's decision is to deny an application, or annul, suspend or terminate EPA assistance, that decision becomes effective thirty (30) days from the date on which the Administrator submits a full written report of the circumstances and grounds for such action to the Committees of the House and Senate having legislative jurisdiction over the program or activity involved. The decision of the Administrator shall not be subject to further administrative appeal under EPA's General Regulation for Assistance Programs (40 CFR part 30, subpart L).

(4) *Scope of decision.* The denial, annulment, termination or suspension shall be limited to the particular applicant or recipient who was found to have discriminated, and shall be limited in its effect to the particular program or the part of it in which the discrimination was found.

### § 7.135 Procedure for regaining eligibility.

(a) *Requirements.* An applicant or recipient whose assistance has been denied, annulled, terminated, or suspended under this part regains eligibility as soon as it:

(1) Provides reasonable assurance that it is complying and will comply with this part in the future, and

(2) Satisfies the terms and conditions for regaining eligibility that are specified in the denial, annulment, termination or suspension order.

(b) *Procedure.* The applicant or recipient must submit a written request to restore eligibility to the OCR declaring that it has met the requirements set forth in paragraph (a) of this section. Upon determining that these requirements have been met, the OCR must notify the Award Official, and the applicant or recipient that eligibility has been restored.

(c) *Rights on denial of restoration of eligibility.* If the OCR denies a request to restore eligibility, the applicant or recipient may file a written request for a hearing before the EPA Chief Administrative Law Judge in accordance with paragraph (c) § 7.130, listing the reasons it believes the OCR was in error.

### APPENDIX A TO PART 7—EPA ASSISTANCE PROGRAMS AS LISTED IN THE "CATALOG OF FEDERAL DOMESTIC ASSISTANCE"

1. Assistance provided by the Office of Air, Noise and Radiation under the Clean Air Act of 1977, as amended; Pub. L. 95-95, 42 U.S.C. 7401 *et seq.* (ANR 66.001)

2. Assistance provided by the Office of Air, Noise and Radiation under the Clean Air Act of 1977, as amended; Pub. L. 95-95, 42 U.S.C. 7401 *et seq.* (ANR 66.003)

3. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; sections 101(e), 109(b), 201-85, 207, 208(d), 210-12, 215-19, 304(d)(3), 313, 501, 502, 511 and 516(b); Pub. L. 97-117; Pub. L. 95-217; Pub. L. 96-483; 33 U.S.C. 1251 *et seq.* (OW 66.418)

4. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; section 106; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.* (OW 66.419)

5. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.* (OW 66.426)

6. Assistance provided by the Office of Water under the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523; as amended by Pub. L. 93-190; Pub. L. 96-63; and Pub. L. 93-502. (OW 66.432)

7. Assistance provided by the Office of Water under the Safe Drinking Water Act, Pub. L. 93-523, as amended by Pub. L. 96-63, Pub. L. 95-190, and Pub. L. 96-502. (OW 66.433)

8. Assistance provided by the Office of Water under the Clean Water Act of 1977, section 205(g), as amended by Pub. L. 95-217 and the Federal Water Pollution Control Act, as amended; Pub. L. 97-117; 33 U.S.C. 1251 *et seq.* (OW 66.438)

9. Assistance provided by the Office of Water under the Resource Conservation and Recovery Act of 1976; as amended by the Solid Waste Disposal Act; Pub. L. 94-580; section 3011, 42 U.S.C. 6931, 6947, 6948-49. (OW 66.802)

10. Assistance provided by the Office of Research and Development under the Clean Air Act of 1977, as amended; Pub. L. 95-95; 42 U.S.C. *et seq.*; Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.*; section 8001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; Pub. L. 94-580; 42 U.S.C. 6901, Public Health Service Act as amended by the Safe Drinking Water Act as amended by Pub. L. 95-190; Federal Insecticide, Fungicide and Rodenticide Act; Pub. L. 95-516; 7 U.S.C. 136 *et seq.*, as amended by Pub. L.'s 94-140 and 95-396; Toxic Substances Control Act; 15 U.S.C. 2609; Pub. L. 94-469. (ORD 66.500)

11. Assistance provided by the Office of Research and Development under the Clean Air Act of 1977, as amended; Pub. L. 95-95; 42 U.S.C. 7401 *et seq.* (ORD 66.501)

12. Assistance provided by the Office of Research and Development under the Federal Insecticide, Fungicide and Rodenticide Act, Pub. L. 95-516, 7 U.S.C. 136 *et seq.*, as amended by Pub. L.'s 94-140 and 95-396. (ORD 66.502)

13. Assistance provided by the Office of Research and Development under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; 42 U.S.C. 6901, Pub. L. 94-580, section 8001. (ORD 66.504)

14. Assistance provided by the Office of Research and Development under the Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.* (ORD 66.505)

15. Assistance provided by the Office of Research and Development under the Public Health Service Act as

Pt. 7, App. A

amended by the Safe Drinking Water Act, as amended by Pub. L. 95-190 (ORD-66.506)

16. Assistance provided by the Office of Research and Development under the Toxic Substances Control Act; Pub. L. 94-469; 15 U.S.C. 2609; section 10. (ORD 66.587)

17. Assistance provided by the Office of Administration, including but not limited to: Clean Air Act of 1977, as amended; Pub. L. 95-95; 42 U.S.C. 7401 *et seq.*; Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.*; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; 42 U.S.C. 6901; Pub. L. 94-580; Federal Insecticide, Fungicide and Rodenticide Act; Pub. L. 92-516; 7 U.S.C. 136 *et seq.* as amended by Pub. L.'s 94-140 and 95-396; Public Health Service Act, as amended by the Safe Drinking Water Act, as amended by Pub. L. 95-190. (OA 66.600)

18. Assistance provided by the Office of Administration under the Clean Water Act of 1977, as amended; Pub. L. 95-217; section 213; 33 U.S.C. 1251 *et seq.* (OA 66.603)

19. Assistance provided by the Office of Enforcement Counsel under the Federal Insecticide and Rodenticide Act, as amended; Pub. L. 92-516; 7 U.S.C. 136 *et seq.*, as amended by Pub. L. 94-140, section 23(a) and Pub. L. 95-396. (OA 66.700)

20. Assistance provided by the Office of Solid Waste and Emergency Response under the Comprehensive Environmental Responses, Compensation and Liability Act of 1980; Pub. L. 96-510, section 3012, 42 U.S.C. 9601, *et seq.* (OSW—number not to be assigned since Office of Management and Budget does not catalog one-year programs.)

21. Assistance provided by the Office of Water under the Clean Water Act as amended; Pub. L. 97-117, 33 U.S.C. 1313. (OW—66.454)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**Return Receipt Requested**

Certified Mail #7009 2820 0002 1759 0875

**In Reply Refer to:**

EPA File No. 02R-15-R3 OFFICE OF CIVIL RIGHTS

Edward C. Adams, Jr., Director  
County Office Building  
111 West Chesapeake Avenue  
Baltimore, Maryland 21204

**Re: Rejection of Administrative Complaint**

Dear Director Adams:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), has reviewed electronic correspondence from a resident of Baltimore County dated January 23, 2015. Because the OCR is responsible for processing complaints alleging a violation of Title VI of the Civil Rights Act of 1961, as amended (Title VI), 42 U.S.C. §§2000d, *et. seq.*, and its implementing regulations, 40 Code of Federal Regulations (C.F.R.) Part 7, the OCR is treating the correspondence as a complaint for purposes of assessing Title VI jurisdiction. The correspondence contains allegations that the Department of Public Works (DPW) of Baltimore County, Maryland, discriminated against African Americans by failing to provide them with adequate curbing and sewer infrastructure, as compared to residents of a nearby Caucasian neighborhood.

Pursuant to the EPA's nondiscrimination administrative regulations, the OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to the appropriate Agency. *See* 40 C.F.R. § 7.120(d)(1). For a complaint to be accepted for investigation, the complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *See* 40 C.F.R. § 7.120(b)(1). Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. For your reference, we have enclosed a copy of the EPA's nondiscrimination regulations.

After careful review, the OCR is rejecting the resident's complaint because the allegations described therein do not meet the EPA's jurisdictional requirements. That is to be accepted for investigation, the complaint must be filed against a recipient of the



EPA's financial assistance that allegedly committed the discriminatory act(s). The DPW is not a current recipient of EPA financial assistance. Therefore, the OCR finds that it lacks jurisdiction to investigate this complaint and accordingly must reject it.

If you have questions about this letter, please contact Samuel Peterson at (202) 564-5393 or via electronic mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov).

Sincerely,

Velveta Golightly-Howell  
Director

Enclosure (1)

cc: Elise Packard  
Associate General Counsel  
Civil Rights and Finance Law Office  
(MC 2399A)

William Early  
Deputy Civil Rights Official,  
U.S. EPA Region 3  
(MC 3DA00)

**PART 7—NONDISCRIMINATION IN  
PROGRAMS RECEIVING FEDERAL  
ASSISTANCE FROM THE ENVIRONMENTAL  
PROTECTION AGENCY**

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7.20 Responsible agency officers.  
7.25 Definitions.

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**APPENDIX A TO PART 7—EPA ASSISTANCE PROGRAMS  
AS LISTED IN THE "CATALOG OF FEDERAL DOMESTIC  
ASSISTANCE"**

**AUTHORITY:** 42 U.S.C. 2000d to 2000d-4; 29 U.S.C. 794; 33 U.S.C. 1251 *et seq.*

**SOURCE:** 49 FR 1659, Jan. 12, 1984, unless otherwise noted.

**Subpart A—General**

**§ 7.10 Purpose of this part.**

This part implements: Title VI of the Civil Rights Act of 1964, as amended; section 504 of the Rehabilitation Act of 1973, as amended; and section 13 of the Federal Water Pollution Control Act Amendments of 1972, Public Law 92-500, (collectively, the Acts).

**§ 7.15 Applicability.**

This part applies to all applicants for, and recipients of, EPA assistance in the operation of programs or activities receiving such assistance beginning February 13, 1984. New construction (§ 7.70) for which design was initiated prior to February 13, 1984, shall comply with the accessibility requirements in the Department of Health, Education and Welfare (now the Department of Health and Human Services) nondiscrimination regulation, 45 CFR 84.23, issued June 3, 1977, or with equivalent standards that ensure the facility is readily accessible to and usable by handicapped persons. Such assistance includes but is not limited to that which is listed in the *Catalog of Federal Domestic Assistance* under the 66.000 series. It supersedes the provisions of former 40 CFR parts 7 and 12.

**§ 7.20 Responsible agency officers.**

(a) The EPA Office of Civil Rights (OCR) is responsible for developing and administering EPA's compliance programs under the Acts.

(b) EPA's Project Officers will, to the extent possible, be available to explain to each recipient its obligations under this part and to provide recipients with technical assistance or guidance upon request.

**§ 7.25 Definitions.**

As used in this part:

*Administrator* means the Administrator of EPA. It includes any other agency official authorized to act on his or her behalf, unless explicitly stated otherwise.

*Alcohol abuse* means any misuse of alcohol which demonstrably interferes with a person's health, interpersonal relations or working ability.

*Applicant* means any entity that files an application or unsolicited proposal or otherwise requests EPA assistance (see definition for *EPA assistance*).

*Assistant Attorney General* is the head of the Civil Rights Division, U.S. Department of Justice.

*Award Official* means the EPA official with the authority to approve and execute assistance agreements and to take other assistance related actions

## § 7.25

authorized by this part and by other EPA regulations or delegation of authority.

*Drug abuse* means:

(a) The use of any drug or substance listed by the Department of Justice in 21 CFR 1308.11, under authority of the Controlled Substances Act, 21 U.S.C. 801, as a controlled substance unavailable for prescription because:

- (1) The drug or substance has a high potential for abuse;
- (2) The drug or other substance has no currently accepted medical use in treatment in the United States; or
- (3) There is a lack of accepted safety for use of the drug or other substance under medical supervision.

*NOTE:* Examples of drugs under paragraph (a)(1) of this section include certain opiates and opiate derivatives (e.g., heroin) and hallucinogenic substances (e.g., marijuana, mescaline, peyote) and depressants (e.g., methaqualone). Examples of (a)(2) include opium, coca leaves, methadone, amphetamines and barbiturates.

(b) The misuse of any drug or substance listed by the Department of Justice in 21 CFR 1308.12-1308.15 under authority of the Controlled Substances Act as a controlled substance available for prescription.

*EPA* means the United States Environmental Protection Agency.

*EPA assistance* means any grant or cooperative agreement, loan, contract (other than a procurement contract or a contract of insurance or guaranty), or any other arrangement by which EPA provides or otherwise makes available assistance in the form of:

- (1) Funds;
- (2) Services of personnel; or
- (3) Real or personal property or any interest in or use of such property, including:
  - (i) Transfers or leases of such property for less than fair market value or for reduced consideration; and
  - (ii) Proceeds from a subsequent transfer or lease of such property if EPA's share of its fair market value is not returned to EPA.

*Facility* means all, or any part of, or any interests in structures, equipment, roads, walks, parking lots, or other real or personal property.

*Handicapped person:*

(a) *Handicapped person* means any person who (1) has a physical or mental impairment which substantially limits one or more major life activities, (2) has a record of such an impairment, or (3) is regarded as having such an impairment. For purposes of employment, the term *handicapped person* does not include any person who is an alcoholic or drug abuser whose current use of alcohol or drugs prevents such individual from performing the duties of the job in question or whose

employment, by reason of such current drug or alcohol abuse, would constitute a direct threat to property or the safety of others.

(b) As used in this paragraph, the phrase:

(1) *Physical or mental impairment* means (i) any physiological disorder or condition, cosmetic disfigurement, or anatomical loss affecting one or more of the following body systems: Neurological; musculoskeletal; special sense organs; respiratory, including speech organs; cardiovascular; reproductive; digestive; genito-urinary; hernia and lymphatic; skin; and endocrine; and (ii) any mental or psychological disorder, such as mental retardation, organic brain syndrome, emotional or mental illness, and specific learning disabilities.

(2) *Major life activities* means functions such as caring for one's self, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working.

(3) *Has a record of such an impairment* means has a history of, or has been misclassified as having, a mental or physical impairment that substantially limits one or more major life activities.

(4) *Is regarded as having an impairment* means:

- (i) Has a physical or mental impairment that does not substantially limit major life activities but that is treated by a recipient as constituting such a limitation;
- (ii) Has a physical or mental impairment that substantially limits major life activities only as a result of the attitudes of others toward such impairment; or
- (iii) Has none of the impairments defined above but is treated by a recipient as having such an impairment.

*Office of Civil Rights* or OCR means the Director of the Office of Civil Rights, EPA Headquarters or his/her designated representative.

*Project Officer* means the EPA official designated in the assistance agreement (as defined in EPA assistance) as EPA's program contact with the recipient; Project Officers are responsible for monitoring the project.

*Qualified handicapped person* means:

(a) With respect to employment: A handicapped person who, with reasonable accommodation, can perform the essential functions of the job in question.

(b) With respect to services: A handicapped person who meets the essential eligibility requirements for the receipt of such services.

*Racial classifications:*<sup>1</sup>

<sup>1</sup>Additional subcategories based on national origin or primary language spoken may be used where appropriate on either a national or a regional basis. Subparagraphs (a) through (c) are in conformity with Directive 15 of the Office of Federal Statistical Policy and Standards, whose function is now in the Office of Information and Regulatory Affairs, Office of Management and Budget. Should

(a) *American Indian or Alaskan native.* A person having origins in any of the original peoples of North America, and who maintains cultural identification through tribal affiliation or community recognition.

(b) *Asian or Pacific Islander.* A person having origins in any of the original peoples of the Far East, Southeast Asia, the Indian subcontinent, or the Pacific Islands. This area includes, for example, China, Japan, Korea, the Philippine Islands, and Samoa.

(c) *Black and not of Hispanic origin.* A person having origins in any of the black racial groups of Africa.

(d) *Hispanic.* A person of Mexican, Puerto Rican, Cuban, Central or South American or other Spanish culture or origin, regardless of race.

(e) *White, not of Hispanic origin.* A person having origins in any of the original peoples of Europe, North Africa, or the Middle East.

*Recipient* means, for the purposes of this regulation, any state or its political subdivision, any instrumentality of a state or its political subdivision, any public or private agency, institution, organization, or other entity, or any person to which Federal financial assistance is extended directly or through another recipient, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiary of the assistance.

*Section 13* refers to section 13 of the Federal Water Pollution Control Act Amendments of 1972.

*United States* includes the states of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, Wake Island, the Canal Zone, and all other territories and possessions of the United States; the term *State* includes any one of the foregoing.

## Subpart B—Discrimination Prohibited on the Basis of Race, Color, National Origin or Sex

### § 7.30 General prohibition.

No person shall be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving EPA assistance on the basis of race, color, national origin, or on the basis of sex in any program or activity receiving EPA assistance under the Federal Water Pollution Control Act, as amended, including the Environmental Financing Act of 1972.

that office, or any successor office, change or otherwise amend the categories listed in Directive 15, the categories in this paragraph shall be interpreted to conform with any such changes or amendments.

### § 7.35 Specific prohibitions.

(a) As to any program or activity receiving EPA assistance, a recipient shall not directly or through contractual, licensing, or other arrangements on the basis of race, color, national origin or, if applicable, sex:

(1) Deny a person any service, aid or other benefit of the program;

(2) Provide a person any service, aid or other benefit that is different, or is provided differently from that provided to others under the program;

(3) Restrict a person in any way in the enjoyment of any advantage or privilege enjoyed by others receiving any service, aid, or benefit provided by the program;

(4) Subject a person to segregation in any manner or separate treatment in any way related to receiving services or benefits under the program;

(5) Deny a person or any group of persons the opportunity to participate as members of any planning or advisory body which is an integral part of the program, such as a local sanitation board or sewer authority;

(6) Discriminate in employment on the basis of sex in any program subject to section 13, or on the basis of race, color, or national origin in any program whose purpose is to create employment; or, by means of employment discrimination, deny intended beneficiaries the benefits of the EPA assistance program, or subject the beneficiaries to prohibited discrimination.

(7) In administering a program or activity receiving Federal financial assistance in which the recipient has previously discriminated on the basis of race, color, sex, or national origin, the recipient shall take affirmative action to provide remedies to those who have been injured by the discrimination.

(b) A recipient shall not use criteria or methods of administering its program which have the effect of subjecting individuals to discrimination because of their race, color, national origin, or sex, or have the effect of defeating or substantially impairing accomplishment of the objectives of the program with respect to individuals of a particular race, color, national origin, or sex.

(c) A recipient shall not choose a site or location of a facility that has the purpose or effect of excluding individuals from, denying them the benefits of, or subjecting them to discrimination under any program to which this part applies on the grounds of race, color, or national origin or sex; or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of this subpart.

(d) The specific prohibitions of discrimination enumerated above do not limit the general prohibition of § 7.30.

## § 7.45

### Subpart C—Discrimination Prohibited on the Basis of Handicap

#### § 7.45 General prohibition.

No qualified handicapped person shall solely on the basis of handicap be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity receiving EPA assistance.

#### § 7.50 Specific prohibitions against discrimination.

(a) A recipient, in providing any aid, benefit or service under any program or activity receiving EPA assistance shall not, on the basis of handicap, directly or through contractual, licensing, or other arrangement:

(1) Deny a qualified handicapped person any service, aid or other benefit of a federally assisted program;

(2) Provide different or separate aids, benefits, or services to handicapped persons or to any class of handicapped persons than is provided to others unless the action is necessary to provide qualified handicapped persons with aids, benefits, or services that are as effective as those provided to others;

(3) Aid or perpetuate discrimination against a qualified handicapped person by providing significant assistance to an entity that discriminates on the basis of handicap in providing aids, benefits, or services to beneficiaries of the recipient's program;

(4) Deny a qualified handicapped person the opportunity to participate as a member of planning or advisory boards; or

(5) Limit a qualified handicapped person in any other way in the enjoyment of any right, privilege, advantage, or opportunity enjoyed by others receiving an aid, benefit or service from the program.

(b) A recipient may not, in determining the site or location of a facility, make selections: (1) That have the effect of excluding handicapped persons from, denying them the benefits of, or otherwise subjecting them to discrimination under any program or activity that receives or benefits from EPA assistance or (2) that have the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of the program or activity receiving EPA assistance with respect to handicapped persons.

(c) A recipient shall not use criteria or methods of administering any program or activity receiving EPA assistance which have the effect of subjecting individuals to discrimination because of their handicap, or have the effect of defeating or substantially impairing accomplishment of the objectives

of such program or activity with respect to handicapped persons.

(d) Recipients shall take appropriate steps to ensure that communications with their applicants, employees, and beneficiaries are available to persons with impaired vision and hearing.

(e) The exclusion of non-handicapped persons or specified classes of handicapped persons from programs limited by Federal statute or Executive Order to handicapped persons or a different class of handicapped persons is not prohibited by this subpart.

#### § 7.55 Separate or different programs.

Recipients shall not deny a qualified handicapped person an opportunity equal to that afforded others to participate in or benefit from the aid, benefit, or service in the program receiving EPA assistance. Recipients shall administer programs in the most integrated setting appropriate to the needs of qualified handicapped persons.

#### § 7.60 Prohibitions and requirements relating to employment.

(a) No qualified handicapped person shall, on the basis of handicap, be subjected to discrimination in employment under any program or activity that receives or benefits from Federal assistance.

(b) A recipient shall make all decisions concerning employment under any program or activity to which this part applies in a manner which ensures that discrimination on the basis of handicap does not occur, and shall not limit, segregate, or classify applicants or employees in any way that adversely affects their opportunities or status because of handicap.

(c) The prohibition against discrimination in employment applies to the following activities:

(1) Recruitment, advertising, and the processing of applications for employment;

(2) Hiring, upgrading, promotion, award of tenure, demotion, transfer, layoff, termination, right of return from layoff, and rehiring;

(3) Rates of pay or any other form of compensation and changes in compensation;

(4) Job assignments, job classifications, organizational structures, position descriptions, lines of progression, and seniority lists;

(5) Leaves of absence, sick leave, or any other leave;

(6) Fringe benefits available by virtue of employment, whether or not administered by the recipient;

(7) Selection and financial support for training, including apprenticeship, professional meetings, conferences, and other related activities, and selection for leaves of absence to pursue training;

(8) Employer sponsored activities, including social or recreational programs; or

(9) Any other term, condition, or privilege of employment.

(d) A recipient shall not participate in a contractual or other relationship that has the effect of subjecting qualified handicapped applicants or employees to discrimination prohibited by this subpart. The relationships referred to in this paragraph include relationships with employment and referral agencies, with labor unions, with organizations providing or administering fringe benefits to employees of the recipient, and with organizations providing training and apprenticeship programs.

(e) A recipient shall make reasonable accommodation to the known physical or mental limitations of an otherwise qualified handicapped applicant or employee unless the recipient can demonstrate that the accommodation would impose an undue hardship on the operation of its program.

(f) A recipient shall not use employment tests or criteria that discriminate against handicapped persons and shall ensure that employment tests are adapted for use by persons who have handicaps that impair sensory, manual, or speaking skills.

(g) A recipient shall not conduct a preemployment medical examination or make a preemployment inquiry as to whether an applicant is a handicapped person or as to the nature or severity of a handicap except as permitted by the Department of Justice in 28 CFR 42.513.

#### § 7.65 Accessibility.

(a) *General.* A recipient shall operate each program or activity receiving EPA assistance so that such program or activity, when viewed in its entirety, is readily accessible to and usable by handicapped persons. This paragraph does not:

(1) Necessarily require a recipient to make each of its existing facilities or every part of an existing facility accessible to and usable by handicapped persons.

(2) Require a recipient to take any action that the recipient can demonstrate would result in a fundamental alteration in the nature of its program or activity or in undue financial and administrative burdens. If an action would result in such an alteration or such financial and administrative burdens, the recipient shall be required to take any other action that would not result in such an alteration or financial and administrative burdens but would nevertheless ensure that handicapped persons receive the benefits and services of the program or activity receiving EPA assistance.

(b) *Methods of making existing programs accessible.* A recipient may comply with the accessibility requirements of this section by making structural changes, redesigning equipment, reassigning services to accessible buildings, assigning aides to beneficiaries, or any other means that make its program or activity accessible to handicapped persons.

In choosing among alternatives, a recipient must give priority to methods that offer program benefits to handicapped persons in the most integrated setting appropriate.

(c) *Deadlines.* (1) Except where structural changes in facilities are necessary, recipients must adhere to the provisions of this section within 60 days after the effective date of this part.

(2) Recipients having an existing facility which does require alterations in order to make a program or activity accessible must prepare a transition plan in accordance with § 7.75 within six months from the effective date of this part. The recipient must complete the changes as soon as possible, but not later than three years from date of award.

(d) *Notice of accessibility.* The recipient must make sure that interested persons, including those with impaired vision or hearing, can find out about the existence and location of the assisted program services, activities, and facilities that are accessible to and usable by handicapped persons.

(e) *Structural and financial feasibility.* This section does not require structural alterations to existing facilities if making such alterations would not be structurally or financially feasible. An alteration is not structurally feasible when it has little likelihood of being accomplished without removing or altering a load-bearing structural member. Financial feasibility shall take into account the degree to which the alteration work is to be assisted by EPA assistance, the cost limitations of the program under which such assistance is provided, and the relative cost of accomplishing such alterations in manners consistent and inconsistent with accessibility.

#### § 7.70 New construction.

(a) *General.* New facilities shall be designed and constructed to be readily accessible to and usable by handicapped persons. Alterations to existing facilities shall, to the maximum extent feasible, be designed and constructed to be readily accessible to and usable by handicapped persons.

(b) *Conformance with Uniform Federal Accessibility Standards.* (1) Effective as of January 18, 1991, design, construction, or alteration of buildings in conformance with sections 3-8 of the Uniform Federal Accessibility Standards (USAF) (appendix A to 41 CFR subpart 101-19.6) shall be deemed to comply with the requirements of this section with respect to those buildings. Departures from particular technical and scoping requirements of UFAS by the use of other methods are permitted where substantially equivalent or greater access to and usability of the building is provided.

(2) For purposes of this section, section 4.1.6(1)(g) of UFAS shall be interpreted to exempt from the requirements of UFAS only mechanical

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rooms and other spaces that, because of their intended use, will not require accessibility to the public or beneficiaries or result in the employment or residence therein of persons with physical handicaps.

(3) This section does not require recipients to make building alterations that have little likelihood of being accomplished without removing or altering a load-bearing structural member.

[49 FR 1659, Jan. 12, 1984, as amended at 55 FR 52138, 52142, Dec. 19, 1990]

### § 7.75 Transition plan.

If structural changes to facilities are necessary to make the program accessible to handicapped persons, a recipient must prepare a transition plan.

(a) *Requirements.* The transition plan must set forth the steps needed to complete the structural changes required and must be developed with the assistance of interested persons, including handicapped persons or organizations representing handicapped persons. At a minimum, the transition plan must:

(1) Identify the physical obstacles in the recipient's facilities that limit handicapped persons' access to its program or activity.

(2) Describe in detail what the recipient will do to make the facilities accessible.

(3) Specify the schedule for the steps needed to achieve full program accessibility, and include a year-by-year timetable if the process will take more than one year.

(4) Indicate the person responsible for carrying out the plan.

(b) *Availability.* Recipients shall make available a copy of the transition plan to the OCR upon request and to the public for inspection at either the site of the project or at the recipient's main office.

## Subpart D—Requirements for Applicants and Recipients

### § 7.80 Applicants.

(a) *Assurances—(1) General.* Applicants for EPA assistance shall submit an assurance with their applications stating that, with respect to their programs or activities that receive EPA assistance, they will comply with the requirements of this part. Applicants must also submit any other information that the OCR determines is necessary for preaward review. The applicant's acceptance of EPA assistance is an acceptance of the obligation of this assurance and this part.

(2) *Duration of assurance—(i) Real property.* When EPA awards assistance in the form of real property, or assistance to acquire real property, or structures on the property, the assurance will obligate the recipient, or transferee, during the period

the real property or structures are used for the purpose for which EPA assistance is extended, or for another purpose in which similar services or benefits are provided. The transfer instrument shall contain a covenant running with the land which assures nondiscrimination. Where applicable, the covenant shall also retain a right of reverter which will permit EPA to recover the property if the covenant is ever broken.

(ii) *Personal property.* When EPA provides assistance in the form of personal property, the assurance will obligate the recipient for so long as it continues to own or possess the property.

(iii) *Other forms of assistance.* In all other cases, the assurance will obligate the recipient for as long as EPA assistance is extended.

(b) *Wastewater treatment project.* EPA Form 4700-4 shall also be submitted with applications for assistance under Title II of the Federal Water Pollution Control Act.

(c) *Compliance information.* Each applicant for EPA assistance shall submit regarding the program or activity that would receive EPA assistance:

(1) Notice of any lawsuit pending against the applicant alleging discrimination on the basis of race, color, sex, handicap, or national origin;

(2) A brief description of any applications pending to other federal agencies for assistance, and of Federal assistance being provided at the time of the application; and

(3) A statement describing any civil rights compliance reviews regarding the applicant conducted during the two-year period before the application, and information concerning the agency or organization performing the reviews.

(Approved by the Office of Management and Budget under control number 2000-0006)

### § 7.85 Recipients.

(a) *Compliance information.* Each recipient shall collect, maintain, and on request of the OCR, provide the following information to show compliance with this part:

(1) A brief description of any lawsuits pending against the recipient that allege discrimination which this part prohibits;

(2) Racial/ethnic, national origin, sex and handicap data, or EPA Form 4700-4 information submitted with its application;

(3) A log of discrimination complaints which identifies the complaint, the date it was filed, the date the recipient's investigation was completed, the disposition, and the date of disposition; and

(4) Reports of any compliance reviews conducted by any other agencies.

(b) *Additional compliance information.* If necessary, the OCR may require recipients to submit data and information specific to certain programs to determine compliance where there is reason to



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believe that discrimination may exist in a program or activity receiving EPA assistance or to investigate a complaint alleging discrimination in a program or activity receiving EPA assistance. Requests shall be limited to data and information which is relevant to determining compliance and shall be accompanied by a written statement summarizing the complaint or setting forth the basis for the belief that discrimination may exist.

(c) *Self-evaluation.* Each recipient must conduct a self-evaluation of its administrative policies and practices, to consider whether such policies and practices may involve handicap discrimination prohibited by this part. When conducting the self-evaluation, the recipient shall consult with interested and involved persons including handicapped persons or organizations representing handicapped persons. The evaluation shall be completed within 18 months after the effective date of this part.

(d) Preparing compliance information. In preparing compliance information, a recipient must:

(1) [Reserved]

(2) Use the racial classifications set forth in § 7.25 in determining categories of race, color or national origin.

(e) *Maintaining compliance information.* Recipients must keep records for paragraphs (a) and (b) of this section for three (3) years after completing the project. When any complaint or other action for alleged failure to comply with this part is brought before the three-year period ends, the recipient shall keep records until the complaint is resolved.

(f) *Accessibility to compliance information.* A recipient shall:

(1) Give the OCR access during normal business hours to its books, records, accounts and other sources of information, including its facilities, as may be pertinent to ascertain compliance with this part;

(2) Make compliance information available to the public upon request; and

(3) Assist in obtaining other required information that is in the possession of other agencies, institutions, or persons not under the recipient's control. If such party refuses to release that information, the recipient shall inform the OCR and explain its efforts to obtain the information.

(g) *Coordination of compliance effort.* If the recipient employs fifteen (15) or more employees, it shall designate at least one person to coordinate its efforts to comply with its obligations under this part.

(Approved by the Office of Management and Budget under control number 2000-8006)

### § 7.90 Grievance procedures.

(a) *Requirements.* Each recipient shall adopt grievance procedures that assure the prompt and

fair resolution of complaints which allege violation of this part.

(b) *Exception.* Recipients with fewer than fifteen (15) full-time employees need not comply with this section unless the OCR finds a violation of this part or determines that creating a grievance procedure will not significantly impair the recipient's ability to provide benefits or services.

### § 7.95 Notice of nondiscrimination.

(a) *Requirements.* A recipient shall provide initial and continuing notice that it does not discriminate on the basis of race, color, national origin, or handicap in a program or activity receiving EPA assistance or, in programs covered by section 13, on the basis of sex. Methods of notice must accommodate those with impaired vision or hearing. At a minimum, this notice must be posted in a prominent place in the recipient's offices or facilities. Methods of notice may also include publishing in newspapers and magazines, and placing notices in recipient's internal publications or on recipient's printed letterhead. Where appropriate, such notice must be in a language or languages other than English. The notice must identify the responsible employee designated in accordance with § 7.85.

(b) *Deadline.* Recipients of assistance must provide initial notice by thirty (30) calendar days after award and continuing notice for the duration of EPA assistance.

### § 7.100 Intimidation and retaliation prohibited.

No applicant, recipient, nor other person shall intimidate, threaten, coerce, or discriminate against any individual or group, either:

(a) For the purpose of interfering with any right or privilege guaranteed by the Acts or this part; or

(b) Because the individual has filed a complaint or has testified, assisted or participated in any way in an investigation, proceeding or hearing under this part, or has opposed any practice made unlawful by this regulation.

## Subpart E—Agency Compliance Procedures

### § 7.105 General policy.

EPA's Administrator, Director of the Office of Civil Rights, Project Officers and other responsible officials shall seek the cooperation of applicants and recipients in securing compliance with this part, and are available to provide help.

### § 7.110 Preaward compliance.

(a) *Review of compliance information.* Within EPA's application processing period, the OCR will

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determine whether the applicant is in compliance with this part and inform the Award Official. This determination will be based on the submissions required by § 7.80 and any other information EPA receives during this time (including complaints) or has on file about the applicant. When the OCR cannot make a determination on the basis of this information, additional information will be requested from the applicant, local government officials, or interested persons or organizations, including handicapped persons or organizations representing such persons. The OCR may also conduct an on-site review only when it has reason to believe discrimination may be occurring in a program or activity which is the subject of the application.

(b) *Voluntary compliance.* If the review indicates noncompliance, an applicant may agree in writing to take the steps the OCR recommends to come into compliance with this part. The OCR must approve the written agreement before any award is made.

(c) *Refusal to comply.* If the applicant refuses to enter into such an agreement, the OCR shall follow the procedure established by paragraph (b) of § 7.130.

### § 7.115 Postaward compliance.

(a) *Periodic review.* The OCR may periodically conduct compliance reviews of any recipient's programs or activities receiving EPA assistance, including the request of data and information, and may conduct on-site reviews when it has reason to believe that discrimination may be occurring in such programs or activities.

(b) *Notice of review.* After selecting a recipient for review or initiating a complaint investigation in accordance with § 7.120, the OCR will inform the recipient of:

(1) The nature of and schedule for review, or investigation; and

(2) Its opportunity, before the determination in paragraph (d) of this section is made, to make a written submission responding to, rebutting, or denying the allegations raised in the review or complaint.

(c) *Postreview notice.* (1) Within 180 calendar days from the start of the compliance review or complaint investigation, the OCR will notify the recipient in writing by certified mail, return receipt requested, of:

(i) Preliminary findings;

(ii) Recommendations, if any, for achieving voluntary compliance; and

(iii) Recipient's right to engage in voluntary compliance negotiations where appropriate.

(2) The OCR will notify the Award Official and the Assistant Attorney General for Civil Rights of the preliminary findings of noncompliance.

(d) *Formal determination of noncompliance.* After receiving the notice of the preliminary finding of noncompliance in paragraph (c) of this section, the recipient may:

(1) Agree to the OCR's recommendations, or

(2) Submit a written response sufficient to demonstrate that the preliminary findings are incorrect, or that compliance may be achieved through steps other than those recommended by OCR.

If the recipient does not take one of these actions within fifty (50) calendar days after receiving this preliminary notice, the OCR shall, within fourteen (14) calendar days, send a formal written determination of noncompliance to the recipient and copies to the Award Official and Assistant Attorney General.

(e) *Voluntary compliance time limits.* The recipient will have ten (10) calendar days from receipt of the formal determination of noncompliance in which to come into voluntary compliance. If the recipient fails to meet this deadline, the OCR must start proceedings under paragraph (b) of § 7.130.

(f) *Form of voluntary compliance agreements.* All agreements to come into voluntary compliance must:

(1) Be in writing;

(2) Set forth the specific steps the recipient has agreed to take, and

(3) Be signed by the Director, OCR or his/her designee and an official with authority to legally bind the recipient.

### § 7.120 Complaint investigations.

The OCR shall promptly investigate all complaints filed under this section unless the complainant and the party complained against agree to a delay pending settlement negotiations.

(a) *Who may file a complaint.* A person who believes that he or she or a specific class of persons has been discriminated against in violation of this part may file a complaint. The complaint may be filed by an authorized representative. A complaint alleging employment discrimination must identify at least one individual aggrieved by such discrimination. Complaints solely alleging employment discrimination against an individual on the basis of race, color, national origin, sex or religion shall be processed under the procedures for complaints of employment discrimination filed against recipients of federal assistance (see 28 CFR part 42, subpart H and 29 CFR part 1691). Complainants are encouraged but not required to make use of any grievance procedure established under § 7.90 before filing a complaint. Filing a complaint through a grievance procedure does not extend the 180 day calendar requirement of paragraph (b)(2) of this section.

(b) *Where, when and how to file complaint.* The complainant may file a complaint at any EPA of-

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file. The complaint may be referred to the region in which the alleged discriminatory acts occurred.

(1) The complaint must be in writing and it must describe the alleged discriminatory acts which violate this part.

(2) The complaint must be filed within 180 calendar days of the alleged discriminatory acts, unless the OCR waives the time limit for good cause. The filing of a grievance with the recipient does not satisfy the requirement that complaints must be filed within 180 days of the alleged discriminatory acts.

(c) *Notification.* The OCR will notify the complainant and the recipient of the agency's receipt of the complaint within five (5) calendar days.

(d) *Complaint processing procedures.* After acknowledging receipt of a complaint, the OCR will immediately initiate complaint processing procedures.

(1) *Preliminary investigation.* (i) Within twenty (20) calendar days of acknowledgment of the complaint, the OCR will review the complaint for acceptance, rejection, or referral to the appropriate Federal agency.

(ii) If the complaint is accepted, the OCR will notify the complainant and the Award Official. The OCR will also notify the applicant or recipient complained against of the allegations and give the applicant or recipient opportunity to make a written submission responding to, rebutting, or denying the allegations raised in the complaint.

(iii) The party complained against may send the OCR a response to the notice of complaint within thirty (30) calendar days of receiving it.

(2) *Informal resolution.* (i) OCR shall attempt to resolve complaints informally whenever possible. When a complaint cannot be resolved informally, OCR shall follow the procedures established by paragraphs (c) through (e) of § 7.115.

(e) *Confidentiality.* EPA agrees to keep the complainant's identity confidential except to the extent necessary to carry out the purposes of this part, including the conduct of any investigation, hearing, or judicial proceeding arising thereunder. Ordinarily in complaints of employment discrimination, the name of the complainant will be given to the recipient with the notice of complaint.

(f) [Reserved]

(g) *Dismissal of complaint.* If OCR's investigation reveals no violation of this part, the Director, OCR, will dismiss the complaint and notify the complainant and recipient.

### § 7.125 Coordination with other agencies.

If, in the conduct of a compliance review or an investigation, it becomes evident that another agency has jurisdiction over the subject matter, OCR will cooperate with that agency during the

continuation of the review of investigation. EPA will:

(a) Coordinate its efforts with the other agency, and

(b) Ensure that one of the agencies is designated the lead agency for this purpose. When an agency other than EPA serves as the lead agency, any action taken, requirement imposed, or determination made by the lead agency, other than a final determination to terminate funds, shall have the same effect as though such action had been taken by EPA.

### § 7.130 Actions available to EPA to obtain compliance.

(a) General. If compliance with this part cannot be assured by informal means, EPA may terminate or refuse to award or to continue assistance. EPA may also use any other means authorized by law to get compliance, including a referral of the matter to the Department of Justice.

(b) Procedure to deny, annul, suspend or terminate EPA assistance.

(1) *OCR finding.* If OCR determines that an applicant or recipient is not in compliance with this part, and if compliance cannot be achieved voluntarily, OCR shall make a finding of noncompliance. The OCR will notify the applicant or recipient (by registered mail, return receipt requested) of the finding, the action proposed to be taken, and the opportunity for an evidentiary hearing.

(2) *Hearing.* (i) Within 30 days of receipt of the above notice, the applicant or recipient shall file a written answer, under oath or affirmation, and may request a hearing.

(ii) The answer and request for a hearing shall be sent by registered mail, return receipt requested, to the Chief Administrative Law Judge (ALJ) (A-110), United States Environmental Protection Agency, 401 M Street, SW., Washington, DC 20460. Upon receipt of a request for a hearing, the ALJ will send the applicant or recipient a copy of the ALJ's procedures. If the recipient does not request a hearing, it shall be deemed to have waived its right to a hearing, and the OCR finding shall be deemed to be the ALJ's determination.

(3) *Final decision and disposition.* (i) The applicant or recipient may, within 30 days of receipt of the ALJ's determination, file with the Administrator its exceptions to that determination. When such exceptions are filed, the Administrator may, within 45 days after the ALJ's determination, serve to the applicant or recipient, a notice that he/she will review the determination. In the absence of either exceptions or notice of review, the ALJ's determination shall constitute the Administrator's final decision.

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(ii) If the Administrator reviews the ALJ's determination, all parties shall be given reasonable opportunity to file written statements. A copy of the Administrator's decision will be sent to the applicant or recipient.

(iii) If the Administrator's decision is to deny an application, or annul, suspend or terminate EPA assistance, that decision becomes effective thirty (30) days from the date on which the Administrator submits a full written report of the circumstances and grounds for such action to the Committees of the House and Senate having legislative jurisdiction over the program or activity involved. The decision of the Administrator shall not be subject to further administrative appeal under EPA's General Regulation for Assistance Programs (40 CFR part 30, subpart L).

(4) *Scope of decision.* The denial, annulment, termination or suspension shall be limited to the particular applicant or recipient who was found to have discriminated, and shall be limited in its effect to the particular program or the part of it in which the discrimination was found.

### § 7.135 Procedure for regaining eligibility.

(a) *Requirements.* An applicant or recipient whose assistance has been denied, annulled, terminated, or suspended under this part regains eligibility as soon as it:

(1) Provides reasonable assurance that it is complying and will comply with this part in the future, and

(2) Satisfies the terms and conditions for regaining eligibility that are specified in the denial, annulment, termination or suspension order.

(b) *Procedure.* The applicant or recipient must submit a written request to restore eligibility to the OCR declaring that it has met the requirements set forth in paragraph (a) of this section. Upon determining that these requirements have been met, the OCR must notify the Award Official, and the applicant or recipient that eligibility has been restored.

(c) *Rights on denial of restoration of eligibility.* If the OCR denies a request to restore eligibility, the applicant or recipient may file a written request for a hearing before the EPA Chief Administrative Law Judge in accordance with paragraph (c) § 7.130, listing the reasons it believes the OCR was in error.

### APPENDIX A TO PART 7—EPA ASSISTANCE PROGRAMS AS LISTED IN THE "CATALOG OF FEDERAL DOMESTIC ASSISTANCE"

1. Assistance provided by the Office of Air, Noise and Radiation under the Clean Air Act of 1977, as amended; Pub. L. 95-95, 42 U.S.C. 7401 *et seq.* (ANR 66.001)

2. Assistance provided by the Office of Air, Noise and Radiation under the Clean Air Act of 1977, as amended; Pub. L. 95-95, 42 U.S.C. 7401 *et seq.* (ANR 66.003)

3. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; sections 101(c), 109(b), 201-05, 207, 208(d), 210-12, 215-19, 304(d)(3), 313, 501, 502, 511 and 516(b); Pub. L. 97-117; Pub. L. 95-217; Pub. L. 96-483; 33 U.S.C. 1251 *et seq.* (OW 66.418)

4. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; section 106; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.* (OW 66.419)

5. Assistance provided by the Office of Water under the Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.* (OW 66.425)

6. Assistance provided by the Office of Water under the Public Health Service Act, as amended by the Safe Drinking Water Act, Pub. L. 93-523; as amended by Pub. L. 93-190; Pub. L. 96-63; and Pub. L. 93-502. (OW 66.432)

7. Assistance provided by the Office of Water under the Safe Drinking Water Act, Pub. L. 93-523, as amended by Pub. L. 96-63, Pub. L. 95-190, and Pub. L. 96-502. (OW 66.433)

8. Assistance provided by the Office of Water under the Clean Water Act of 1977, section 205(g), as amended by Pub. L. 95-217 and the Federal Water Pollution Control Act, as amended; Pub. L. 97-117; 33 U.S.C. 1251 *et seq.* (OW 66.438)

9. Assistance provided by the Office of Water under the Resource Conservation and Recovery Act of 1976; as amended by the Solid Waste Disposal Act; Pub. L. 94-580; section 3011, 42 U.S.C. 6931, 6947, 6948-49. (OW 66.802)

10. Assistance provided by the Office of Research and Development under the Clean Air Act of 1977, as amended; Pub. L. 95-95; 42 U.S.C. *et seq.*; Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.*; section 8001 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; Pub. L. 94-580; 42 U.S.C. 6901, Public Health Service Act as amended by the Safe Drinking Water Act as amended by Pub. L. 95-190; Federal Insecticide, Fungicide and Rodenticide Act; Pub. L. 95-516; 7 U.S.C. 136 *et seq.*, as amended by Pub. L.'s 94-140 and 95-396; Toxic Substances Control Act; 15 U.S.C. 2609; Pub. L. 94-469. (ORD 66.500)

11. Assistance provided by the Office of Research and Development under the Clean Air Act of 1977, as amended; Pub. L. 95-95; 42 U.S.C. 7401 *et seq.* (ORD 66.501)

12. Assistance provided by the Office of Research and Development under the Federal Insecticide, Fungicide and Rodenticide Act, Pub. L. 95-516, 7 U.S.C. 136 *et seq.*, as amended by Pub. L.'s 94-140 and 95-396. (ORD 66.502)

13. Assistance provided by the Office of Research and Development under the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; 42 U.S.C. 6901, Pub. L. 94-580, section 8001. (ORD 66.504)

14. Assistance provided by the Office of Research and Development under the Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.* (ORD 66.505)

15. Assistance provided by the Office of Research and Development under the Public Health Service Act as

Pt. 7, App. A

amended by the Safe Drinking Water Act, as amended by Pub. L. 95-190 (ORD-66.506)

16. Assistance provided by the Office of Research and Development under the Toxic Substances Control Act; Pub. L. 94-469; 15 U.S.C. 2609; section 10. (ORD 66.587)

17. Assistance provided by the Office of Administration, including but not limited to: Clean Air Act of 1977, as amended, Pub. L. 95-95; 42 U.S.C. 7401 *et seq.*; Clean Water Act of 1977, as amended; Pub. L. 95-217; 33 U.S.C. 1251 *et seq.*; Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act of 1976; 42 U.S.C. 6901; Pub. L. 94-580; Federal Insecticide, Fungicide and Rodenticide Act; Pub. L. 92-516; 7 U.S.C. 136 *et seq.* as amended by Pub. L.'s 94-140 and 95-396; Public Health Service Act, as amended by the Safe Drinking Water Act, as amended by Pub. L. 95-190. (OA 66.600)

18. Assistance provided by the Office of Administration under the Clean Water Act of 1977, as amended; Pub. L. 95-217; section 213; 33 U.S.C. 1251 *et seq.* (OA 66.603)

19. Assistance provided by the Office of Enforcement Counsel under the Federal Insecticide and Rodenticide Act, as amended; Pub. L. 92-516; 7 U.S.C. 136 *et seq.* as amended by Pub. L. 94-140, section 23(a) and Pub. L. 95-396. (OA 66.700)

20. Assistance provided by the Office of Solid Waste and Emergency Response under the Comprehensive Environmental Responses, Compensation and Liability Act of 1980; Pub. L. 96-510, section 3012, 42 U.S.C. 9601, *et seq.* (OSW—number not to be assigned since Office of Management and Budget does not catalog one-year programs.)

21. Assistance provided by the Office of Water under the Clean Water Act as amended; Pub. L. 97-117, 33 U.S.C. 1313. (OW-66.454)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

WASHINGTON, D.C. 20460

MAR 06 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #: 7009 2820 0002 1759 1346

**In Reply Refer to:**

EPA File No: 03R-15-R4

David A. Ludder  
9150 McDougal Court  
Tallahassee, Florida 3312-4208

**Re: Notification of Receipt and Acceptance of Administrative Complaint**

Dear Mr. Ludder:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has received and is accepting your complaint, 03R-15-R4, filed against the Jefferson County Department of Health (JCDH) on February 6, 2015. The complaint generally alleges that the JCDH violated Title VI of the *Civil Rights Act of 1964*, as amended (Title VI), 42 United States Code (U.S.C.) §§ 2000d et seq., and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral. (40 C.F.R. § 7.120(d) (1).) To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. (40 C.F.R. § 7.120(b) (1) Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. (40 C.F.R. § 7.120(b) (2).) Finally, the complaint must be filed against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act. (40 C.F.R. § 7.15.)

After careful consideration, the EPA is accepting the following allegation for investigation:

- JCDH's approval on August 11, 2014 of ABC Coke's Major Source Operating Permit No. 4-07-0001-03 to operate a major source of air pollution in Jefferson County, Alabama, which has the effect of adversely and disparately impacting African American residents in the adjacent community.



This allegation is accepted for investigation because it meets the EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against JCDH, a recipient of EPA financial assistance. As a part of OCR's established investigative process, you will receive a request for information from OCR in the near future.

The EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R. §7.120(d) (2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at <http://www.epa.gov/civilrights/faq-adrt6.htm>. We may contact both you and the Recipient's representative in the near future to discuss potential interest in pursuing ADR.

If you have any other questions, please do not hesitate to contact Samuel Peterson [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov) at (202) 564-5393 or U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,



Velveta Golightly-Howell  
Director

Enclosure

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office  
(MC 2399A)

Kenneth Lapierre  
Deputy Civil Rights Official, Region 4  
(MC 9T25)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAR 06 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #: 7009 2820 0002 1759 1339

**In Reply Refer to:**

EPA File No: 03R-15-R4

Jonathan Stanton, PE  
Environmental Health  
Jefferson County Department of Health  
1400 Sixth Avenue South  
Birmingham, Alabama 35233

**Re: Notification of Receipt and Acceptance of Administrative Complaint**

Dear Mr. Stanton:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has received and is accepting a complaint, 03R-15-R4, filed against the Jefferson County Department of Health (JCDH) on February 6, 2015. The complaint generally alleges that the JCDH violated Title VI of the *Civil Rights Act of 1964*, as amended (Title VI), 42 United States Code (U.S.C.) §§ 2000d et seq., and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral. (40 C.F.R. § 7.120(d) (1).) To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. (40 C.F.R. § 7.120(b) (1) Second, the complaint must describe an alleged discriminatory act that, if true, may violate the EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged discriminatory act. (40 C.F.R. § 7.120(b) (2).) Finally, the complaint must be filed against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act. (40 C.F.R. § 7.15.)

After careful consideration, the EPA is accepting the following allegation for investigation:

- JCDH's approval on August 11, 2014 of ABC Coke's Major Source Operating Permit No. 4-07-0001-03 to operate a major source of air pollution in Jefferson County, Alabama, which has the effect of adversely

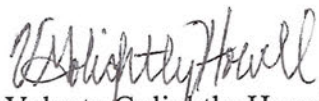
and disparately impacting African American residents in the adjacent community.

This allegation is accepted for investigation because it meets the EPA's four jurisdictional requirements. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against JCDH, a recipient of EPA financial assistance. As a part of OCR's established investigative process, you will receive a request for information from OCR in the near future. In the intervening time, please feel free to provide OCR within thirty (30) days a written submission responding to, rebutting, or denying the allegations raised in the complaint. 40 C.F.R. § 7.120(d) (1) (ii)-(iii)

The EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R. §7.120(d) (2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at <http://www.epa.gov/civilrights/faq-adrt6.htm>. We may contact both the Complainant or his representative, as applicable, and your designated representative in the near future to discuss potential interest in pursuing ADR. Please provide OCR with the name and contact information of your designated representative at your earliest convenience.

If you have any other questions, please do not hesitate to contact Samuel Peterson [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov) at (202) 564-5393 or U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,

  
Velveta Golightly-Howell  
Director

Enclosure

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office  
(MC 2399A)

Kenneth Lapierre  
Deputy Civil Rights Official, Region IV (MC 9T25)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

MAY 05 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail# 7009 2820 0002 1759 1599

**In Reply Refer to:**

EPA File Nos. 01R-15-R4  
04R-15-R4

Colonel Jefferson Dunn  
Commissioner, Alabama Department of Corrections  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, Alabama 36130-1501

**Re: Rejection and Referral of Administrative Complaint**

Dear Col. Dunn:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is rejecting two complaints from an inmate (Complainant) incarcerated in the Alabama Department of Corrections. Two EPA correspondence, informing the Alabama Department of Corrections of this fact, were refused and returned to the EPA. Please consider the enclosed as addressed to your office. Additionally, OCR is rejecting and referring this correspondence to the Department of Justice's (DOJ) Civil Rights Division for the reasons detailed therein.

If you have any questions about EPA's decision to refer the matter to DOJ, please contact Helena Wooden-Aguilar, Assistant Director, External Compliance Program at (202) 564-0792, [Wooden-Aguilar.Helena@epa.gov](mailto:Wooden-Aguilar.Helena@epa.gov), or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,

A handwritten signature in blue ink, reading "Velveta Golightly-Howell", is positioned above the typed name.

Velveta Golightly-Howell  
Director, EPA OCR

Enclosures (2)

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Kenneth Lapierre  
Deputy Civil Rights Official  
U.S. EPA Region IV  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(MC 9T25)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

APR - 3 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail# 7004 2820 0002 1759 1407

**In Reply Refer to:**

EPA File No 04R-15-R4

Commissioner Kim T. Thomas  
Alabama Department of Corrections  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, Alabama 36130-1501

**Re: Rejection and Referral of Administrative Complaint**

Dear Mr. Thomas:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is rejecting a complaint from an inmate (Complainant) incarcerated in the Alabama Department of Corrections. In correspondence received on February 9, 2015, which EPA/OCR construed as a complaint, Complainant alleged various violations of environmental laws by the Alabama Department of Corrections. EPA is rejecting and referring this complaint to the Department of Justice's (DOJ) Civil Rights Division for the reasons detailed below.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of complaints to determine whether to accept, reject, or refer them. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's Part 7 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, the complaint must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act.

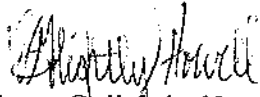
After careful review, OCR is rejecting the referenced complaint because it does not meet all of the jurisdictional requirements of EPA's nondiscrimination regulations. First, the Alabama Department of Corrections is not an applicant for, nor recipient of, EPA financial assistance. Second, allegations must describe a discriminatory act that, if true, may violate EPA's nondiscrimination regulations. Complainant does not claim discrimination based on race, color, national origin, sex, age, or disability status.

Therefore, for these reasons, the complaint does not fall within the EPA/OCR's jurisdiction, and OCR must reject it for investigation.

Additionally, because the DOJ may have subject-matter jurisdiction over the complaint allegations, the EPA/OCR is referring it to the DOJ for appropriate action. A copy of the letter to the DOJ is enclosed. The DOJ contact person is Michael Alston, and his contact information is U.S. Department of Justice, 810 Seventh Street, N.W., Washington D.C., 20531, (202) 354-4380, [askOCR@ojp.usdoj.gov](mailto:askOCR@ojp.usdoj.gov).

If you have any questions about EPA's decision to refer the matter to the DOJ, please contact Helena Wooden-Aguilar, Assistant Director, External Compliance Program at (202) 564-0792, [Wooden-Aguilar.Helena@epa.gov](mailto:Wooden-Aguilar.Helena@epa.gov), or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Velveta Golightly-Howell  
Director, EPA OCR

Enclosures (1)

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Ken LaPierre  
Deputy Civil Rights Official  
U.S. EPA Region IV  
61 Forsyth Street, S.W.  
Atlanta, Georgia 30303-8960  
(MC 9T25)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 21 2016

OFFICE OF  
CIVIL RIGHTS

**RETURN RECEIPT REQUESTED**

Certified Mail #: 7015 1520 0002 0019 1802

**In Reply Refer To:**

EPA File No: 05D-15-R6

The Honorable Pete Saenz  
Mayor  
City Hall  
1110 Houston Street, 3<sup>rd</sup> Floor  
Laredo, Texas 78040

**Re: Rejection of Administrative Complaint**

Dear Mayor Saenz:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has rejected an administrative complaint received on February 18, 2015, alleging that the City of Laredo, the Webb County Utilities Department, and the Texas Commission on Environmental Quality failed to repair sewer pipes affecting the complainant's residence. After careful review, the complaint is rejected, and the case is closed as of the date of this letter.

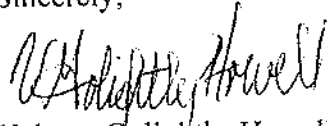
Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to another federal agency. (See 40 C.F.R. § 7.120(d)(1).) To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. (See 40 C.F.R. § 7.120(b)(1).) Second, it must allege discriminatory acts that would violate EPA's nondiscrimination regulations, such as an intentionally discriminatory act or a policy with discriminatory effects based on race, color, national origin, sex, age or disability. *Id.* Third, it must be received filed within 180 calendar days of the alleged discriminatory act. (See 40 C.F.R. § 7.120(b)(2).) Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. (See 40 C.F.R. § 7.15.)

OCR has concluded that it cannot accept the subject complaint for investigation because it does not meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint did not describe an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulations. Second, the City of Laredo and the Webb County Utilities Department are not current recipients of EPA financial assistance. Additionally, the OCR is unable to determine the date(s) that the alleged discriminatory act occurred.



If you have any questions about this letter, please contact Ericka Farrell of my staff by telephone at (202) 564-0717, via electronic mail at [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov), or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,

A handwritten signature in black ink, appearing to read "Velveta Golightly-Howell".

Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 6



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 21 2016

OFFICE OF  
CIVIL RIGHTS

**RETURN RECEIPT REQUESTED**

Certified Mail #: 7015 1520 0002 0019 1826

**In Reply Refer To:**

EPA File No: 05D-15-R6

Mr. Adrian Montemayor  
System Manager  
Webb County Utilities Department  
1000 Houston Street  
Laredo, Texas 78040

**Re: Rejection of Administrative Complaint**

Dear Mr. Montemayor:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has rejected an administrative complaint received on February 18, 2015, alleging that the City of Laredo, the Webb County Utilities Department, and the Texas Commission on Environmental Quality failed to repair sewer pipes affecting the complainant's residence. After careful review, the complaint is rejected and the case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to another federal agency. (See 40 C.F.R. § 7.120(d)(1).) To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. (See 40 C.F.R. § 7.120(b)(1).) Second, it must allege discriminatory acts that would violate EPA's nondiscrimination regulations, such as an intentionally discriminatory act or a policy with discriminatory effects based on race, color, national origin, sex, age or disability. *Id.* Third, it must be received filed within 180 calendar days of the alleged discriminatory act. (See 40 C.F.R. § 7.120(b)(2).) Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. (See 40 C.F.R. § 7.15.)

OCR has concluded that it cannot accept the subject complaint for investigation because it does not meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint did not describe an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulations. Second, the City of Laredo and the Webb County Utilities Department are not current recipients of EPA financial assistance. Additionally, the OCR is unable to determine the date(s) that the alleged discriminatory act occurred.

If you have any questions about this letter, please contact Ericka Farrell of my staff by telephone at (202) 564-0717, via electronic mail at [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov), or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,



Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 6



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

JAN 21 2016

OFFICE OF  
CIVIL RIGHTS

**RETURN RECEIPT REQUESTED**

Certified Mail #: 7015 1520 0002 0019 1819

**In Reply Refer To:**

EPA File No: 05D-15-R6

Mr. Paul Alford  
Texas Commission on Environmental Quality  
707 East Calton Road  
Suite 304  
Laredo, Texas 78041

**Re: Rejection of Administrative Complaint**

Dear Mr. Alford:

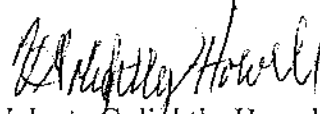
This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has rejected an administrative complaint received on February 18, 2015, alleging that the City of Laredo, the Webb County Utilities Department, and the Texas Commission on Environmental Quality failed to repair sewer pipes affecting the complainant's residence. After careful review, the complaint is rejected, and the case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to another federal agency. (See 40 C.F.R. § 7.120(d)(1).) To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. (See 40 C.F.R. § 7.120(b)(1).) Second, it must allege discriminatory acts that would violate EPA's nondiscrimination regulations, such as an intentionally discriminatory act or a policy with discriminatory effects based on race, color, national origin, sex, age or disability. *Id.* Third, it must be received filed within 180 calendar days of the alleged discriminatory act. (See 40 C.F.R. § 7.120(b)(2).) Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. (See 40 C.F.R. § 7.15.)

OCR has concluded that it cannot accept the subject complaint for investigation because it does not meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint did not describe an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulations. Second, the City of Laredo and the Webb County Utilities Department are not current recipients of EPA financial assistance. Additionally, the OCR is unable to determine the date(s) that the alleged discriminatory act occurred.

If you have any questions about this letter, please contact Ericka Farrell of my staff by telephone at (202) 564-0717, via electronic mail at [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov), or by mail at: U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460-1000.

Sincerely,

A handwritten signature in black ink, appearing to read "Velveta Golightly-Howell".

Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 6





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

February 11, 2016

**Return Receipt Requested**

Certified Mail #: 7015 0640 0006 0305 7398

**In Reply Refer to:**

EPA File No. 06R-15-R6

Mr. Bernard Daniels  
Director of Utilities/Water Plant Manager  
Mr. Calvin Sanders  
Sewer Treatment/Collection Manager  
City of Franklin  
Water and Sewer Department  
300 Iberia Street  
Franklin, Louisiana 70538

**Re: Rejection of Administrative Complaint**

Dear Mr. Daniels and Sanders:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has rejected an administrative complaint we received on February 24, 2015, alleging that the City of Franklin is engaging in "environmental racism" in violation of Title VI of the Civil Rights Act of 1964, as amended, and EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7. On May 5, 2015, OCR notified the complainant that it was rejecting the complaint.

Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to another federal agency. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must allege discriminatory acts that would violate EPA's nondiscrimination regulations, such as an intentionally discriminatory act or a policy with discriminatory effects based on race, color, national origin, sex, age or disability. *Id.* Third, it must be received within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. 40 C.F.R. § 7.15.

After careful review of the information that was provided by the complainant to OCR, the EPA has rejected the complaint because the allegation that was described does not meet the EPA's

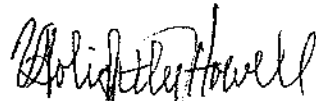
Mr. Bernard Daniels  
Mr. Calvin Sanders

Page 2

jurisdictional requirements. Specifically, the complaint did not identify an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. The City of Franklin and the Ameripure Oyster Company were not recipients of EPA financial assistance. In addition, the complaint did not identify any alleged discriminatory act that occurred within 180 days from filing of the complaint. Also, the OCR does not have jurisdiction over any allegations based on income status. Accordingly, the Agency lacked jurisdiction over the complaint.

If you have questions regarding this letter, please contact Ericka Farrell of my staff at (202) 564-0717, or via e-mail at [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,



Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard,  
Associate General Counsel  
Civil Rights & Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
Region 6





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

February 11, 2016

**Return Receipt Requested**

Certified Mail #: 7015 0640 0006 0305 7404

**In Reply Refer to:**

EPA File No. 06R-15-R6

Mr. John Tesvich  
Ameripure Oyster Company, Inc.  
803 Willow Street  
Franklin, Louisiana 70538

**Re: Rejection of Administrative Complaint**

Dear Mr. Tesvich:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has rejected an administrative complaint received on February 24, 2015, alleging that the Ameripure Oyster Company is engaging in "environmental racism" and that your processing facility is causing local pollution that is damaging residents' quality of life and enjoyment of their property, specifically with respect to the odors caused by your facility waste disposal methods, in violation of Title VI of the Civil Rights Act of 1964, as amended, and EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7. On May 5, 2015, OCR notified the complainant that it was rejecting the complaint.

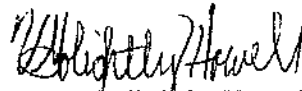
Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to another federal agency. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulations. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must allege discriminatory acts that would violate EPA's nondiscrimination regulations, such as an intentionally discriminatory act or a policy with discriminatory effects based on race, color, national origin, sex, age or disability. *Id.* Third, it must be received within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. 40 C.F.R. § 7.15.

After careful review of the information that was provided by the complainant to OCR, the EPA has rejected the subject complaint based on a failure to meet the EPA's jurisdictional requirements. Specifically, the complaint did not identify an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15. The City

of Franklin and the Ameripure Oyster Company, based on information available, were not recipients of EPA financial assistance. In addition, the complaint did not identify any alleged discriminatory act that occurred within 180 days from filing of the complaint. Also, the OCR does not have jurisdiction over any allegations based on income status. Accordingly, the EPA lacks jurisdiction over the complaint.

If you have questions regarding this letter, please contact Ericka Farrell of my staff at (202) 564-0717, or via e-mail at [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, D.C. 20460-1000.

Sincerely,



Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard,  
Associate General Counsel  
Civil Rights & Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
Region 6



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

August 31, 2016

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #: 7009 2820 0002 1759 1827

**In Reply Refer to:**

EPA File No. 07R-15-R6

Mr. Pete Newkirk, Director  
City of Baton Rouge  
Department of Public Works  
Post Office Box 1471  
Baton Rouge, Louisiana 70821

**Re: Rejection of Administrative Complaint**

Dear Director Newkirk:

The U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) received a complaint on February 25, 2016, alleging that the City of Baton Rouge continues to violate Title VI of the Civil Rights Act of 1964, as amended (Title VI), 42 U.S.C. §§ 2000d *et seq.*, and EPA's nondiscrimination regulation found at 40 C.F.R Part 7. The OCR cannot accept this complaint for investigation as it does not meet the jurisdictional requirements set out in EPA's nondiscrimination regulation. Accordingly, this case is closed as of the date of this letter.

Pursuant to EPA's nondiscrimination regulation, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

After careful review, OCR cannot accept the allegations for investigation because the OCR has concluded that the complaint does not articulate an alleged discriminatory act that, if true, would violate the EPA's nondiscrimination regulation. The complainant described residents adjacent to the North Wastewater Treatment Plant (NWWTP) as suffering due to sewage line construction near the NWWTP, which they claimed was

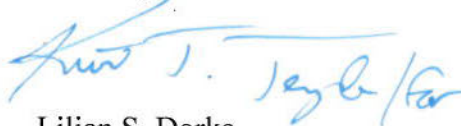


being conducted in order to expand the NWWTP, so that it may receive waste from Zachary, Louisiana. The complainant also described that this construction created negative conditions and health problems. It is noted that these are the same alleged effects that were raised during the permit issuance process.

OCR consulted the City of Baton Rouge and staff in EPA's Region 6 and learned that the construction is related to transmission lines that will provide the infrastructure necessary for the erection of a buffer space between the University Place subdivision and the NWWTP.<sup>1</sup> Further, the complaint failed to describe or identify any new harm or action taken by the City, as opposed to ongoing effects of a prior decision or action, which could be considered a timely discriminatory act. Therefore, the OCR is rejecting and closing this complaint as of the date of this letter.

If you have any questions about this letter, please contact Case Manager Ericka Farrell, at (202) 564-0717, via e-mail at [farrell.ericka@epa.gov](mailto:farrell.ericka@epa.gov) or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka  
Acting Director  
Office of Civil Rights

cc: Elise Packard,  
Associate General Counsel  
Civil Rights and Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 6

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<sup>1</sup> City of Baton Rouge/Parish East Baton Rouge Department of Public Works Consent Decree Fact Sheet, page 1 and 2, October 2009.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**AUG 10 2015**

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CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail# 7009 2820 0002 1759 1124

**In Reply Refer to:**

EPA File No. 08R-15-R4

David A. Ludder  
9150 McDougal Court  
Tallahassee, Florida 32312-4208

**Re: Acceptance of Administrative Complaint**

Dear Mr. Ludder:

The U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has received, and is accepting for investigation, the March 2, 2015 administrative complaint, 08R-15-R4, filed against the Jefferson County Department of Health (JCDH). This complaint generally alleges that JCDH violated Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 United States Code §§ 2000d *et seq.*, and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7 on October 3, 2014. Allegedly, JCDH issued a renewal of the Major Source Operating Permit Number 4-07-0355-03 to Walter Coke, Inc. which resulted in racial discrimination against African American residents in the adjacent community.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d) (1). OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b) (1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b) (2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against JCDH, a recipient of EPA financial assistance.

of the complaint. And finally, the complaint was filed against JCDH, a recipient of EPA financial assistance.

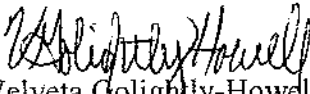
After careful consideration, OCR is accepting the following claim for investigation:

- Whether JCDH's October 3, 2014 issuance of Major Source Operating Permit Number 4-07-0355-03 to Walter Coke, Inc. resulted in discrimination on the basis of race against African American residents in the adjacent community in violation of Title VI.

The decision to investigate the claim in no way amounts to a decision on its merits. Rather, it means the complaint has met the jurisdictional criteria. EPA will begin gathering the relevant information and will discuss the matter further with both you and the recipients. If appropriate, we will then utilize OCR's internal procedures to determine the next steps. For example, the EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d) (2). Accordingly, at any point in the process OCR is willing to discuss requests to informally resolve the complaint and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at <http://www.epa.gov/civilrights/faq-adrt6.htm>.

If you have questions regarding this letter, please contact Samuel Peterson of the OCR External Compliance Program at (202) 564-5393, via electronic mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,

  
Velveta Golightly-Howell  
Director

Enclosure

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, (MC 2399A)

Kenneth Lapierre  
Assistant Regional Administrator, (MC 9T25)

Vickie Tellis  
Assistant Regional Administrator, (MC 9T25)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 10 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail# 7009 2820 0002 1759 1131

**In Reply Refer to:**

EPA File No. 08R-15-R4

Jonathan Stanton, PE  
Environmental Health  
Jefferson County Department of Health  
1400 Sixth Avenue South  
Birmingham, Alabama 35233

**Re: Acceptance of Administrative Complaint**

Dear Mr. Stanton:

The U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) has received, and is accepting for investigation, the March 2, 2015 administrative complaint, 08R-15-R4, filed against the Jefferson County Department of Health (JCDH). This complaint generally alleges that JCDH violated Title VI of the Civil Rights Act of 1964 (Title VI), as amended, 42 United States Code §§ 2000d *et seq.*, and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7, on October 3, 2014. Allegedly, JCDH issued a renewal of the Major Source Operating Permit Number 4-07-0355-03 to Walter Coke, Inc. which resulted in racial discrimination against African American residents in the adjacent community.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d) (1). OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b) (1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b) (2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15.

OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination



regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against JCDH, a recipient of EPA financial assistance.

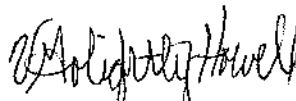
After careful consideration, OCR is accepting the following claim for investigation:

- Whether JCDH's October 3, 2014 issuance of Major Source Operating Permit Number 4-07-0355-03 to Walter Coke, Inc. resulted in discrimination on the basis of race against African American residents in the adjacent community in violation of Title VI.

The decision to investigate the claim in no way amounts to a decision on its merits. Rather, it means the complaint has met the jurisdictional criteria. EPA will begin gathering the relevant information and will discuss the matter further with both you and the claimant. If appropriate, we will then utilize OCR's internal procedures to determine the next steps. For example, the EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d) (2). Accordingly, at any point in the process OCR is willing to discuss requests to informally resolve the complaint and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at <http://www.epa.gov/civilrights/faq-adrt6.htm>.

If you have questions regarding this letter, please contact Samuel Peterson of the OCR External Compliance Program at (202) 564-5393, via electronic mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, NW, Washington, DC 20460-1000.

Sincerely,



Velveta Golightly-Howell  
Director

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office  
(MC 2399A)

Kenneth Lapierre  
Assistant Regional Administrator, (MC 9T25)

Vickie Tellis  
Assistant Regional Administrator, MC 9T25



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

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CIVIL RIGHTS

APR 17 2015

**Return Receipt Requested**

Certified Mail#: 7009 2820 0002 1759 1513

**In Reply Refer to:**

EPA File No.: 09R-15-R4

Matthew Rodriguez  
Secretary for Environmental Protection  
California Environmental Protection Agency  
1001 I Street  
P.O. Box 2815  
Sacramento, California 95812-2815

**Re: Acceptance of Administrative Complaint**

Dear Mr. Rodriguez:

This letter is to notify you the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR) is accepting an administrative complaint (09R-15-R4) filed against the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC) dated March 19, 2015. The complaint generally alleges that CalEPA and DTSC violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.* and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d)(1). OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. As of the date of this letter, OCR has determined that this complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And

finally, the complaint was filed against CalEPA and DTSC, applicants for or recipients of EPA financial assistance.

After careful consideration, OCR will investigate the following:


1. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by approving a permit modification to expand the Kettleman Hills Hazardous Waste Facility (Kettleman Hills facility) that discriminates against Latinos in neighboring communities on the basis of national origin.
2. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations during the Kettleman Hills facility permit modification process by relying on reports developed through the public participation processes that discriminated against limited-English proficient, Spanish speaking residents on the basis of national origin, and that subjected them to a hostile environment on the basis of national origin.
3. Whether CalEPA's and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to consider information about alleged discrimination on the basis of national origin in Complainants' "Petition for Review" process.

The decision to investigate the issues above is not a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and your designees, as well as the Complainants, if appropriate, and determine the next steps utilizing its internal procedures. As a part of OCR's established investigative process, you will receive a request for information from OCR in the near future. In the intervening time, you are welcome to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation. *See* 40 CFR 7.120(d)(1)(ii).

EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, OCR is willing to discuss with CalEPA and DTSC offers to informally resolve this complaint at any point during the process. In addition, OCR may, to the extent appropriate, facilitate an informal resolution process, including alternative dispute resolution (ADR), with the involvement of affected stakeholders, as described at <http://www.epa.gov/civilrights/faq-adrt6.htm>. We will contact both you and the Complainants in the near future to discuss your potential interest in pursuing ADR. Please provide OCR with the name of, and contact information for, your designated representative at your earliest convenience.

If you have any questions about this letter, please feel free to contact Helena Wooden-Aguilar, Assistant Director, External Civil Rights Program at (202) 564-0792, by e-mail at [wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov), or via U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,

A handwritten signature in black ink, appearing to read "Velveta Golightly-Howell". The signature is fluid and cursive, with the first name "Velveta" being the most prominent part.

Velveta Golightly-Howell  
Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

September 13, 2016

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 3172

**In Reply Refer to:**

EPA File No. 09R-15-R9

Mr. Bradley Angel  
Greenaction for Health and Environmental Justice  
559 Ellis Street  
San Francisco, California 94109

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 3165

Ms. Mariciela Mares Alatorre  
El Pueblo Para el Aire y Agua Limpia  
P.O. Box 262  
Kettleman City, California 93239

**Re: Closure of Administrative Complaint**

Dear Mr. Angel and Ms. Alatorre:

This is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is closing the administrative complaint that you filed with OCR on March 19, 2015, on behalf of Greenaction for Health and Environmental Justice (Greenaction), against the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC). Your complaint generally alleged that CalEPA and DTSC violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.* and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

EPA OCR is responsible for enforcing several federal civil rights laws that prohibit discrimination on the bases of race, color, national origin (including limited-English proficiency), disability, sex, and age in programs or activities that receive federal financial assistance from the EPA.

On April 17, 2015, EPA OCR accepted the following issues for investigation relative to your complaint:

1. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by approving a permit modification to expand the Kettleman Hills Hazardous Waste Facility (Kettleman Hills facility) that discriminates against Latinos in neighboring communities on the basis of national origin.
2. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations during the Kettleman Hills facility permit modification process by relying on reports developed through the public participation processes that discriminated against limited-English proficient, Spanish speaking residents on the basis of national origin and that subjected them to a hostile environment on the basis of National Origin.
3. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to consider information about alleged discrimination on the basis of national origin in their "Petition for Review" process.

On August 10, 2016, Greenaction and El Pueblo Para el Aire y Agua Limpia/People for Clean Air & Water of Kettleman City (El Pueblo) reached a "Settlement Agreement" with CalEPA and DTSC through EPA OCR's Alternative Dispute Resolution Process (ADR) with the assistance of a mediator provided by EPA OCR.

Among its terms, the "Settlement Agreement" contains provisions designed to improve public health and environmental quality for people in Kettleman City. Specifically, DTSC has agreed to help facilitate Greenaction and El Pueblo's efforts to conduct a community-based public health assessment, improve third-party and community-based environmental monitoring, and establish an asthma intervention program for residents of Kettleman City. In addition, CalEPA and DTSC agree to enhance compliance with civil rights laws in permitting hazardous waste disposal facilities and oversight of those processes and through the implementation and adherence to civil rights policies, including language access policies and procedures. Both recipients will also enhance meaningful public participation in their programs and activities. See, e.g., Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14207 (March 21, 2006), at [https://www.epa.gov/sites/production/files/2013-09/documents/title6\\_public\\_involvement\\_guidance.3.13.13.pdf](https://www.epa.gov/sites/production/files/2013-09/documents/title6_public_involvement_guidance.3.13.13.pdf)

EPA OCR reviewed and found the terms in the August 10, 2016, "Settlement Agreement" to be a reasonable resolution of issues identified in the complaint acceptance letter in EPA File No. 09R-15-R9. EPA OCR is not a party to the "Settlement Agreement" and OCR will not monitor the implementation of the ADR "Settlement Agreement." However, OCR will respond to complaints by the complainants and recipients of "Settlement Agreement" breaches, as appropriate, pursuant to the procedures set forth in its Interim Case Resolution Manual. [https://www.epa.gov/sites/production/files/2015-12/documents/ocr\\_crm\\_final.pdf](https://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf) (See Sections 3.11 and 3.9.)



The EPA OCR is reminding both DTSC and CalEPA that nothing in the terms of the "Settlement Agreement" prevents OCR from accepting other complaints or pursuing compliance reviews unrelated to those issues that have been resolved, through this process. For instance, the EPA has reminded both DTSC and CalEPA that, as recipients of EPA financial assistance, both are required to comply fully with the requirements of each of the civil rights laws enforced by OCR, and the non-discrimination regulation, including the provisions at 40 C.F.R. Part 7, Subpart D requiring recipients to establish civil rights non-discrimination programs through the development of foundational procedural elements such as, non-discrimination grievance procedures, non-discrimination coordinator, and notice of non-discrimination, and the provision of meaningful access to all of their programs and activities for persons with limited English proficiency and persons with disabilities.

We would like to thank the recipients and complainants for working collaboratively to reach this agreement. In light of the above, EPA OCR is closing the complaint effective the date of this letter without further action. If you have any questions regarding this letter, please contact me at (202)564-9649, or [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov).

Sincerely,



Lilian S. Dorka  
Acting Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Deborah Jordan  
Acting Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 9





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

APR 17 2015

**Return Receipt Requested**

Certified Mail#: 7009 2820 0002 1759 1544

**In Reply Refer to:**

EPA File No.: 09R-15-R4

Barbara A. Lee, Director  
Department of Toxic Substances Control Headquarters  
P.O. Box 806  
Sacramento, California 95812-0806

**Re: Acceptance of Administrative Complaint**

Dear Ms. Lee:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting an administrative complaint (09R-15-R4) filed against the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC) dated March 19, 2015. The complaint generally alleges that CalEPA and DTSC violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.* and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d)(1). OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. As of the date of this letter, OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against CalEPA and DTSC, applicants for, or recipients of, EPA financial assistance.

After careful consideration, OCR will investigate the following:

1. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by approving a permit modification to expand the Kettleman Hills Hazardous Waste Facility (Kettleman Hills facility) that discriminates against Latinos in neighboring communities on the basis of national origin.
2. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations during the Kettleman Hills facility permit modification process by relying on reports developed through the public participation processes that discriminated against limited-English proficient, Spanish-speaking residents on the basis of national origin, and that subjected them to a hostile environment on the basis of national origin.
3. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to consider information about alleged discrimination on the basis of national origin in their "Petition for Review" process.

The decision to investigate the issues above is not a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and your designees, as well as the Complainants, if appropriate, and determine the next steps utilizing its internal procedures. As part of OCR's established investigative process, you will receive a request for information from OCR in the near future. In the intervening time, you are welcome to make a written submission responding to, rebutting, or denying the issues that have been accepted for investigation. See 40 CFR 7.120(d)(1)(ii).

EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR is willing to discuss with CalEPA and DTSC offers to informally resolve the subject complaint at any point during the process. In addition, OCR may, to the extent appropriate, facilitate an informal resolution process, including alternative dispute resolution (ADR), with the involvement of affected stakeholders, as described at <http://www.epa.gov/civilrights/faq-adr6.htm>. We will contact both you and the Complainants in the near future to discuss your potential interest in pursuing ADR. Please provide OCR with the name of, and contact information for, your designated representative at your earliest convenience.

If you have any questions about this letter, please feel free to contact Helena Wooden-Aguilar, Assistant Director, External Civil Rights Program at (202) 564-0792, by e-mail at [wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov), or U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code

1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000. (Note: Fix left margin so text aligns.)

Sincerely,

A handwritten signature in black ink, appearing to read "Velveta Golightly-Howell". The signature is written in a cursive, flowing style with some capitalization.

Velveta Golightly-Howell  
Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

APR 17 2015

**Return Receipt Requested**

Certified Mail#: 7009 2820 0002 1759 1537

**In Reply Refer to:**

EPA File No.: 09R-15-R4

Mariciela Mares Alatorre  
El Pueblo Para el Aire y Agua Limpia  
P.O. Box 262  
Kettleman City, California 93239

**Re: Acceptance of Administrative Complaint**

Dear Ms. Mares Alatorre:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting your March 19, 2015 administrative complaint (09R-15-R4) filed against the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC). The complaint generally alleges that CalEPA and DTSC violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.* and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d)(1). OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. As of the date of this letter, OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against CalEPA and DTSC, applicants for, or recipients of, EPA financial assistance.

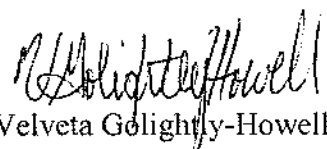
After careful consideration, OCR will investigate the following:

1. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by approving a permit modification to expand the Kettleman Hills Hazardous Waste Facility (Kettleman Hills facility) that discriminates against Latinos in neighboring communities on the basis of national origin.
2. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations during the Kettleman Hills facility permit modification process by relying on reports developed through the public participation processes that discriminated against limited-English proficient, Spanish speaking residents on the basis of national origin, and that subjected them to a hostile environment on the basis of national origin.
3. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to consider information about alleged discrimination on the basis of national origin in the Complainants' "Petition for Review" process.

The decision to investigate the issues above is not a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and the recipients, if appropriate, and determine next steps utilizing its internal procedures. The EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. *See* 40 C.F.R. § 7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at <http://www.epa.gov/civilrights/faq-adrt6.htm>. We will be contacting both you and representatives of DTSC and CalEPA in the near future to discuss your potential interest in pursuing ADR.

If you have any questions about this letter, please feel free to contact Helena Wooden-Aguilar, Assistant Director, External Civil Rights Program at (202) 564-0792, by e-mail at [wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov), or via U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,

  
Velveta Golightly-Howell  
Director





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

APR 17 2015

**Return Receipt Requested**

Certified Mail#: 7009 2820 0002 17569 1520

**In Reply Refer to:**

EPA File No.: 09R-15-R4

Bradley Angel  
Greenaction for Health and Environmental Justice  
559 Ellis Street  
San Francisco, California 94109

**Re: Acceptance of Administrative Complaint**

Dear Mr. Angel:

This letter is to notify you the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is accepting your March 19, 2015 administrative complaint (09R-15-R4) filed against the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC). The complaint generally alleges that CalEPA and DTSC violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.* and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to the EPA's nondiscrimination regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection or referral to the appropriate agency. *See* 40 C.F.R. § 7.120(d)(1). OCR accepts for investigation complaints that meet the four jurisdictional requirements described in the EPA's nondiscrimination regulations. First, the complaint must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, the complaint must describe an alleged discriminatory act that if true, may violate the EPA's nondiscrimination regulations (*e.g.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, the complaint must be filed within 180 calendar days of the alleged act. *See* 40 C.F.R. § 7.120(b)(2). Finally, the complaint must be against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. *See* 40 C.F.R. § 7.15. As of the date of this letter, OCR has determined that the subject complaint meets the four jurisdictional requirements as stated above. First, the complaint is in writing. Second, the complaint describes an alleged discriminatory act that may violate the EPA's nondiscrimination regulations. Third, the alleged discriminatory act occurred within 180 days of the filing of the complaint. And finally, the complaint was filed against CalEPA and DTSC, applicants for, or recipients of, EPA financial assistance.



After careful consideration, OCR will investigate the following:

1. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by approving a permit modification to expand the Kettleman Hills Hazardous Waste Facility (Kettleman Hills facility) that discriminates against Latinos in neighboring communities on the basis of national origin.
2. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations during the Kettleman Hills facility permit modification process by relying on reports developed through the public participation processes that discriminated against limited-English proficient, Spanish speaking residents on the basis of national origin, and that subjected them to a hostile environment on the basis of national origin.
3. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to consider information about alleged discrimination on the basis of national origin in the Complainants' "Petition for Review" process.

The decision to investigate the issues above is not a decision on the merits. EPA will begin its process to gather the relevant information, discuss the matter further with you and the recipients, if appropriate, and determine next steps utilizing its internal procedures. The EPA's nondiscrimination regulations provide that OCR will attempt to resolve complaints informally whenever possible. 40 C.F.R. § 7.120(d)(2). Accordingly, OCR is willing to discuss, at any point during the process, offers to informally resolve the complaint, and may, to the extent appropriate, facilitate an informal resolution process with the involvement of affected stakeholders, including alternative dispute resolution (ADR) as described at <http://www.epa.gov/civilrights/faq-adr16.htm>. We will be contacting both you and representatives of DTSC and CalEPA in the near future to discuss your potential interest in pursuing ADR.

If you have any questions about this letter, please feel free to contact Helena Wooden-Aguilar, Assistant Director, External Civil Rights Program at (202) 564-0792, by e-mail at [wooden-aguilar.helena@epa.gov](mailto:wooden-aguilar.helena@epa.gov), or via U.S. mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460-1000.

Sincerely,



Velveta Golightly-Howell  
Director



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

September 13, 2016

**Return Receipt Requested**

Certified Mail#: 7015 1520 0002 0019 3189

**In Reply Refer to:**

EPA File No. 09R-15-R9

Matthew Rodriguez  
Secretary for Environmental Protection  
California Environmental Protection Agency  
1001 I Street  
P.O. Box 2815  
Sacramento, California 95812-2815

**Return Receipt Requested**

Certified Mail#: 7015 3010 0001 1267 6093

Barbara A. Lee, Director  
Department of Toxic Substances Control Headquarters  
P.O. Box 806  
Sacramento, California 95812-0806

**Re: Closure of Administrative Complaint**

Dear Mr. Rodriguez and Ms. Lee:

This is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is closing the administrative complaint filed with OCR on March 19, 2015, on behalf of Greenaction for Health and Environmental Justice (Greenaction), against the California Environmental Protection Agency (CalEPA) and the Department of Toxic Substances Control (DTSC). The complaint generally alleged that CalEPA and DTSC violated Title VI of the Civil Rights Act of 1964, as amended, 42 United States Code 2000d *et seq.* and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

EPA OCR is responsible for enforcing several federal civil rights laws that prohibit discrimination on the bases of race, color, national origin (including limited-English proficiency), disability, sex, and age in programs or activities that receive federal financial assistance from the EPA.

On April 17, 2015, EPA OCR accepted the following issues for investigation relative to this complaint:

1. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by approving a permit modification to expand the Kettleman Hills Hazardous Waste Facility (Kettleman Hills facility) that discriminates against Latinos in neighboring communities on the basis of national origin.
2. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations during the Kettleman Hills facility permit modification process by relying on reports developed through the public participation processes that discriminated against limited-English proficient, Spanish speaking residents on the basis of national origin and that subjected them to a hostile environment on the basis of National Origin.
3. Whether CalEPA and DTSC violated Title VI of the Civil Rights Act and EPA's implementing regulations by refusing to consider information about alleged discrimination on the basis of national origin in their "Petition for Review" process.

On August 10, 2016, Greenaction and El Pueblo Para el Aire y Agua Limpia/People for Clean Air & Water of Kettleman City (El Pueblo) reached a "Settlement Agreement" with CalEPA and DTSC through EPA OCR's Alternative Dispute Resolution Process (ADR) with the assistance of a mediator provided by EPA OCR.

Among its terms, the "Settlement Agreement" contains provisions designed to improve public health and environmental quality for people in Kettleman City. Specifically, DTSC has agreed to help facilitate Greenaction and El Pueblo's efforts to conduct a community-based public health assessment, improve third-party and community-based environmental monitoring, and establish an asthma intervention program for residents of Kettleman City. In addition, CalEPA and DTSC agree to enhance compliance with civil rights laws in permitting hazardous waste disposal facilities and oversight of those processes and through the implementation and adherence to civil rights policies, including language access policies and procedures. Both recipients will also enhance meaningful public participation in their programs and activities. See, e.g., Title VI Public Involvement Guidance for EPA Assistance Recipients Administering Environmental Permitting Programs, 71 Fed. Reg. 14207 (March 21, 2006), at [https://www.epa.gov/sites/production/files/2013-09/documents/title6\\_public\\_involvement\\_guidance.3.13.13.pdf](https://www.epa.gov/sites/production/files/2013-09/documents/title6_public_involvement_guidance.3.13.13.pdf)

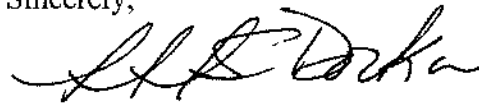
EPA OCR reviewed and found the terms in the August 10, 2016, "Settlement Agreement" to be a reasonable resolution of issues identified in the complaint acceptance letter in EPA File No. 09R-15-R9. EPA OCR is not a party to the "Settlement Agreement" and OCR will not monitor the implementation of the ADR "Settlement Agreement." However, OCR will respond to complaints by the complainants and recipients of "Settlement Agreement" breaches, as appropriate, pursuant to the procedures set forth in its Interim Case Resolution Manual.

[https://www.epa.gov/sites/production/files/2015-12/documents/ocr\\_crm\\_final.pdf](https://www.epa.gov/sites/production/files/2015-12/documents/ocr_crm_final.pdf). (See Sections 3.11 and 3.9.)

The EPA OCR wants to remind both DTSC and CalEPA that nothing in the terms of the "Settlement Agreement" prevents OCR from accepting other complaints or pursuing compliance reviews unrelated to those issues that have been resolved, through this process. For instance, the EPA also wants to remind both DTSC and CalEPA that, as recipients of EPA financial assistance, both are required to comply fully with the requirements of each of the civil rights laws enforced by OCR, and the non-discrimination regulation, including the provisions at 40 C.F.R. Part 7, Subpart D requiring recipients to establish civil rights non-discrimination programs through the development of foundational procedural elements such as, non-discrimination grievance procedures, non-discrimination coordinator, and notice of non-discrimination, and the provision of meaningful access to all of your programs and activities for persons with limited English proficiency and persons with disabilities.

We would like to thank the recipients and complainants for working collaboratively to reach this agreement. In light of the above, EPA OCR is closing the complaint effective the date of this letter without further action. If you have any questions regarding this letter, please contact me at (202)564-9649, or [dorka.lilian@epa.gov](mailto:dorka.lilian@epa.gov).

Sincerely,



Lilian S. Dorka  
Acting Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Deborah Jordan  
Acting Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 9



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

OFFICE OF  
CIVIL RIGHTS

JUL 08 2015

**Return Receipt Requested**

Certified Mail# 7009 2820 0002 1759 1612

**In Reply Refer to:**

EPA File No. 10U-15-R8

North Dakota Mediation Service  
North Dakota Department of Agriculture  
600 E Boulevard Avenue  
Department 602  
Bismarck, North Dakota 58505-0020

**Re: Notification and Referral of Correspondence**

To whom it may concern:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), received correspondence relating to a resident's experience with the North Dakota Department of Agriculture Mediation Service (NDDOA) on April 13, 2015.

The EPA does not have jurisdiction over complaints related to NDDOA's mediation services. It appears that this matter may fall within the jurisdiction of the United States Department of Agriculture's (USDA) OCR. For these reasons, the EPA/OCR has referred the matter to the USDA Office of the Assistant Secretary for Civil Rights, Office of Adjudication for appropriate action. A copy of this referral letter is enclosed.

The USDA contact is Carl-Martin Ruiz, and his contact information is USDA/OASCR, 541 Reporter's Building, Mail Stop 9410, 300 7<sup>th</sup> Street, S.W., Washington, DC 20250. For information on the discrimination complaint process, contact the Office of the Assistant Secretary for Civil Rights, Information Research Service, at (202) 260-1026 or (866) 632-9992 (toll free) or send an email to the Office of Assistant Secretary for Civil Rights at [CR-INFO@ascr.usda.gov](mailto:CR-INFO@ascr.usda.gov).

If you have any questions, please contact William Yon at (202) 564-5617, [yon.william@epa.gov](mailto:yon.william@epa.gov) or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Velveta Golightly-Howell  
Director, EPA Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Howard Cantor  
Deputy Civil Rights Official  
U.S. EPA Region VIII  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
(MC 8RA)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 20 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail#: 7009 2820 0002 1759 1995

**In Reply Refer to:**

EPA File No. 11D-15-R3

Mr. Gilbert J. Winn, Chief Executive Officer  
Mr. Daniel E. Willert, General Counsel  
Winn Companies  
Six Faneuil Hall Marketplace  
Boston, Massachusetts 02109

**Re: Rejection and Referral of Administrative Complaint**

Dear Mr. Winn and Mr. Willert:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is rejecting the administrative complaint filed against the Winn Companies received by the EPA on June 8, 2015. The complaint generally alleges that Winn Companies is discriminating against the Complainant based on disability, age and sex in violation of Title VI of the Civil Rights Act of 1964, the Age Discrimination Act of 1975, Section 504 of the Rehabilitation Act of 1973, and the EPA's nondiscrimination regulations found at 40 Code of Federal Regulations (C.F.R.) Part 7.

Pursuant to EPA's nondiscrimination administrative regulations, OCR conducts a preliminary review of administrative complaints for acceptance, rejection, or referral to another agency. *See* 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in the EPA's nondiscrimination regulations. First, it must be in writing. *See* 40 C.F.R. § 7.120(b)(1). Second, it must allege discriminatory acts that would violate the EPA's nondiscrimination regulations, such as an intentionally discriminatory act or a policy with discriminatory effects based on race, color, national origin, sex, age or disability. *Id.* Third, it must be received within 180 calendar days of the alleged discriminatory act. *See* 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that committed the alleged discriminatory act. *See* 40 C.F.R. § 7.15.

The OCR is not accepting the allegation for investigation because it does not meet the EPA's jurisdictional requirements. Winn Companies is not a recipient of federal financial assistance from EPA and therefore not within the OCR's jurisdiction. However, due to the circumstances underlying the allegation, the OCR is referring this complaint for potential further action to the D.C. Department of Consumer & Regulatory Affairs (DCRA) Housing Code Inspection Division and the D.C. Department of Health (DOH) Rodent Control Office. Contact

information for the DCRA Housing Code Inspection Division is as follows: 1100 Fourth Street, S.W., Fourth Floor, Washington, D.C. 20024, [dcra.housingcomplaints@dc.gov](mailto:dcra.housingcomplaints@dc.gov), (202) 442-4400. Contact information for the DOH Rodent Control Office is as follows: 899 North Capitol Street, N.E., Washington, D.C. 20002, (202) 535-2323, [doh@dc.gov](mailto:doh@dc.gov). Please direct further inquiries on this complaint to these offices. We are notifying their Directors by copying them on the correspondence.

If you have questions regarding this letter, please contact Jonathan Stein of the OCR External Compliance Program at (202) 564-2088, via email at [stein.jonathan@epa.gov](mailto:stein.jonathan@epa.gov), or by mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, DC 20460.

Sincerely,

Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel, Civil Rights & Finance Law Office  
(MC 2399A)

William Early, Deputy Regional Administrator  
Deputy Civil Rights Official, U.S. EPA, Region 3  
(MC 3DA00)

Ms. Melinda Bolling, Acting Director  
D.C. Department of Consumer & Regulatory Affairs  
1100 Fourth Street, S.W.  
Washington, D.C. 20024

LaQuandra S. Nesbitt MD, MPH, Director  
D.C. Department of Health  
899 North Capitol Street, N.E.  
Washington, D.C. 20002

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

March 17, 2017

**Return Receipt Requested**

Certified Mail #: 7015 3010 0001 1267 5355

**In Reply Refer to:**

EPA File No: 14U-15-R3

Mr. Don Supcoe  
Energy Corporation of America  
Eastern Operations  
500 Corporate Landing  
Charleston, West Virginia 25311

**Re: Closure of Administrative Complaint**

Dear Mr. Supcoe:

On June 24, 2015, U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence from a resident of Mingo County, West Virginia (Complainant) regarding concerns about damage to Complainant's home and property from nearby abandoned mines. In the correspondence, Complainant indicated that they had contacted the Energy Corporation of America regarding Complainant's property and Energy Corporation of America's involvement in this matter. ECRCO has determined that it cannot accept this administrative complaint for investigation as it relates to Energy Corporation of America because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation relative to Energy Corporation of America because Energy Corporation of America is neither an applicant for, nor a recipient of, EPA financial assistance. Therefore, ECRCO is



Mr. Don Supcoe

Page 2

closing this complaint as of the date of this letter.

If you have any questions about this letter, please contact Jonathan Stein of my staff at (202) 564-2088, via email at [Stein.Jonathan@epa.gov](mailto:Stein.Jonathan@epa.gov), or by mail at U.S. EPA, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Kenneth Redden  
Acting Associate General Counsel  
Civil Rights & Finance Law Office

John A. Armstead  
Acting Deputy Regional Administrator  
Acting Deputy Civil Rights Official  
U.S. EPA Region 3

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

March 17, 2017

**Return Receipt Requested**

Certified Mail #: 7015 3010 0001 1267 5331

**In Reply Refer to:**

EPA File No: 14U-15-R3

Mr. Harold Hall  
Kinzer Drilling, LLC  
Quality Natural Gas, LLC  
Kentucky 80  
Allen City, Kentucky 41601

**Re: Closure of Administrative Complaint**

Dear Mr. Hall:

On June 24, 2015, U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence from a resident of Mingo County, West Virginia (Complainant) regarding concerns about damage to Complainant's home and property from nearby abandoned mines. In the correspondence, Complainant indicated that Complainant had contacted Kinzer Drilling, LLC, regarding Complainant's property and Kinzer Drilling's involvement in this matter. ECRCO has determined that it cannot accept this administrative complaint for investigation as it relates to Kinzer Drilling, LLC, because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation relative to Kinzer Drilling, LLC, because Kinzer Drilling, LLC, is neither an applicant for, nor a recipient of, EPA financial assistance. Therefore, ECRCO is closing this complaint as of the date of this letter.

Mr. Harold Hall

Page 2

If you have any questions about this letter, please contact Jonathan Stein of my staff at (202) 564-2088, via email at [Stein.Jonathan@epa.gov](mailto:Stein.Jonathan@epa.gov), or by mail at U.S. EPA, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Kenneth Redden  
Acting Associate General Counsel  
Civil Rights & Finance Law Office

John A. Armstead  
Acting Deputy Regional Administrator  
Acting Deputy Civil Rights Official  
U.S. EPA Region 3



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460



EXTERNAL CIVIL RIGHTS COMPLIANCE OFFICE  
OFFICE OF GENERAL COUNSEL

March 17, 2017

**Return Receipt Requested**

Certified Mail #: 7015 3010 0001 1267 5348

**In Reply Refer to:**

EPA File No: 14U-15-R3

Mr. Robert Rice  
West Virginia Department of Environmental Protection  
Office of Abandoned Mine Lands and Reclamation  
601 57th Street  
Charleston, West Virginia 25304

**Re: Closure of Administrative Complaint**

Dear Mr. Rice:

On June 24, 2015, U.S. Environmental Protection Agency (EPA), External Civil Rights Compliance Office (ECRCO), received correspondence from a resident of Mingo County, West Virginia (Complainant) regarding concerns about damage to Complainant's home and property from nearby abandoned mines. In the correspondence, Complainant indicated that Complainant had contacted West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation regarding Complainant's property and your office's involvement in this matter. ECRCO has determined that it cannot accept this administrative complaint for investigation because it does not meet the jurisdictional requirements set forth in EPA's nondiscrimination regulation.

Pursuant to EPA's nondiscrimination regulation, ECRCO conducts a preliminary review of administrative complaints for acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, a complaint must meet the jurisdictional requirements described in EPA's nondiscrimination regulation. First, it must be in writing. 40 C.F.R. § 7.120(b)(1). Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulation (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). *Id.* Third, it must be filed within 180 calendar days of the alleged discriminatory act. 40 C.F.R. § 7.120(b)(2). Finally, it must be filed against an applicant for, or a recipient of, EPA financial assistance that allegedly committed the discriminatory act. 40 C.F.R. § 7.15.

Complainant's original correspondence did not provide ECRCO with enough information to determine whether ECRCO could investigate the concerns. Accordingly, in a letter dated August 27, 2015, ECRCO sought clarification from Complainant about Complainant's

correspondence. Specifically, ECRCO requested that Complainant provide the following information:

1. A description of the alleged discriminatory act(s) committed by the West Virginia Department of Environmental Protection that violated EPA's nondiscrimination regulations.
2. A description of how the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation; discriminated against the complainant and on what basis(es); *e.g.* race, color, national origin, sex, age or disability.
3. The date(s) of the alleged discriminatory act(s) committed by the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation that occurred within the 180 calendar days of when the complaint was filed (June 17, 2015).

ECRCO received responses from Complainant on September 9, 2015 and December 2, 2015. The responses, however, did not describe the alleged discrimination, nor did they provide dates for an alleged discriminatory act. In other words, Complainant did not state how, when, and on what basis(es) the West Virginia Department of Environmental Protection, Office of Abandoned Mine Lands and Reclamation allegedly discriminated against Complainant.

After careful consideration, ECRCO has concluded that it cannot accept the complaint for investigation because it does not meet the jurisdictional requirements described in EPA's nondiscrimination regulation. Therefore, ECRCO is rejecting and closing this complaint as of the date of this letter.

ECRCO has been in touch with the following organizations and has informed Complainant that these organizations could be of service to regarding Complainant's concerns:

U.S. Department of the Interior  
Office of Surface Mining Reclamation and Enforcement  
Roger W. Calhoun, Director  
Charleston Field Office  
1027 Virginia Street, East  
Charleston, West Virginia 25301  
(304) 347-7158

West Virginia Environmental Council  
Conni Gratop Lewis  
2207 Washington St E  
Charleston West Virginia 25324  
(304) 543-5811

Mr. Robert Rice

Page 3

West Virginia Rivers Coalition  
Angie Rosser  
3501 MacCorkle Ave. SE #129  
Charleston West Virginia 25304  
(304) 637-7201

If you have any questions about this letter, please contact Jonathan Stein of my staff at (202) 564-2088, via email at [Stein.Jonathan@epa.gov](mailto:Stein.Jonathan@epa.gov), or by mail at U.S. EPA, Office of General Counsel (Mail Code 2310A), 1200 Pennsylvania Avenue, N.W., Washington, D.C. 20460.

Sincerely,



Lilian S. Dorka  
Director  
External Civil Rights Compliance Office  
Office of General Counsel

cc: Kenneth Redden  
Acting Associate General Counsel  
Civil Rights & Finance Law Office

John A. Armstead  
Acting Deputy Regional Administrator  
Acting Deputy Civil Rights Official  
U.S. EPA Region 3





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 21 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #:7009 2820 0002 1759 1230

**In Reply Refer to:**

EPA File No 15U-15-R4

North Carolina Department of Public Safety  
4201 Mail Service Center  
Raleigh, North Carolina 27699-4201

**Re: Rejection and Referral of Administrative Complaint**

To whom it may concern:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), received a complaint on June 30, 2015, alleging that the Eastern Correctional Facility (ECF), the North Carolina Department of Corrections (NCDOC), and the North Carolina Department of Public Safety (NCDPS) failed to remediate friable asbestos in its insulation.

The OCR is rejecting and referring the subject complaint to the Department of Justice's (DOJ) Civil Rights Division, the Department of Labor's Occupational Safety and Health Administration (OSHA), and the North Carolina Health Hazards Control Unit in the Department of Health and Human Services Division of Public Health (NCHHCU) due to lack of jurisdiction.


Pursuant to EPA's nondiscrimination regulations, the OCR conducts a preliminary review of correspondence to determine acceptance, rejection, or referral. 40 Code of Federal Regulations (C.F.R.) § 7.120(d)(1). To be accepted for investigation, correspondence must meet the jurisdictional requirements described in EPA's Part 7 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, correspondence must be filed against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act.

After careful review, OCR is rejecting the complaint for investigation because it does not meet all of the jurisdictional requirements of EPA's nondiscrimination regulations. First, the ECF, the NCDOC, or the NCDPS is an applicant for, or recipient of EPA financial assistance. Second, the allegation does not describe an alleged

discriminatory act that may violate EPA's nondiscrimination regulations. However, due to the circumstances underlying the allegations, OCR is referring it for potential further action by the DOJ, the OSHA, and the NCHHCU. A copy of these letters are enclosed.

If you have any questions about OCR's decision to refer the matter to DOJ, please contact William Yon at (202) 564-5617, at [yon.william@epa.gov](mailto:yon.william@epa.gov), or via mail at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,

  
Velveta Golightly-Howell  
Director  
Office of Civil Rights

Enclosure

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Ken Lapierre  
Assistant Regional Administrator  
U.S. EPA Region IV  
(MC 9T25)

Vickie Tellis  
Deputy Assistant Regional Administrator  
U.S. EPA Region IV  
(MC 9T25)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

January 27, 2016

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #: 7015 0640 0006 0305 7053

**In Reply Refer to:**

EPA File No: 18R-15-R5

Mr. Keith Harley  
Attorney for  
The Southeast Environmental Task Force  
Chicago Legal Clinic  
211 West Wacker Drive, Suite 750  
Chicago, Illinois 60606

**Re: Voluntary Withdrawal of Administrative Complaint**

Dear Mr. Harley:

The U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) received your letter dated August 25, 2015, requesting to withdraw your EPA complaint (No. 18R-15-R5) as received on July 23, 2015. It is our understanding that your request is based on the findings, responsive measures and commitments as delineated in the Illinois EPA's July 2, 2015 Environmental Justice Grievance Investigative Report and Resolution. Information regarding this resolution may be found on the Illinois EPA's Environmental Justice Grievances and Resolution Website at the following link:

[www.epa.illinois.gov/topics/environmental-justice/grievances/index](http://www.epa.illinois.gov/topics/environmental-justice/grievances/index).

Pursuant to your request, OCR is administratively closing your complaint with prejudice and will consider this matter as resolved. If you have any questions, please contact Samuel Peterson of my staff at (202) 564-5393 or via e-mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov).

Sincerely,

A handwritten signature in black ink, appearing to read "Velveta Golightly-Howell", is written over the typed name.

Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office



Robert Kaplan  
Deputy Regional Administrator  
Deputy Civil Rights Official, Region V

Alan Walts  
Director  
OECA, Region V



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

January 27, 2016

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #: 7015 1520 0002 0019 1871

**In Reply Refer to:**

EPA File No. 18R-15-R5

Lisa Bonnett, Director  
Illinois Environmental Protection Agency  
1021 North Grand Avenue East  
P.O. Office Box 19276,  
Springfield, Illinois 62794-9276

**Re: Voluntary Withdrawal of Administrative Complaint**

Dear Ms. Bonnett:

The U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) is in receipt of a letter from the Complainant dated August 25, 2015, requesting a voluntary withdrawal of EPA complaint (No. 18R-15-R5), received on July 23, 2015. It is our understanding that the request is based on the findings, responsive measures and commitments as contained in the Illinois EPA's July 2, 2015 Environmental Justice Grievance Investigative Report and Resolution. See [www.epa.illinois.gov/topics/environmental-justice/grievances/index](http://www.epa.illinois.gov/topics/environmental-justice/grievances/index).

Pursuant to the Complainant's request, OCR is administratively closing the complaint with prejudice and will consider this matter as resolved. If you have any questions, please contact Samuel Peterson of my staff at (202) 564-5393 or via e-mail at [peterson.samuel@epa.gov](mailto:peterson.samuel@epa.gov).

Sincerely,

A handwritten signature in black ink, which appears to read "Velveta Golightly-Howell", is written over a faint, larger version of the same signature.

Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Robert Kaplan  
Deputy Regional Administrator  
Deputy Civil Rights Official, Region V

Alan Walts  
Director  
OECA, Region V



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 27 2015

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail#: 7009 2820 0002 1759 1186

**In Reply Refer to:**

EPA File No 21U-15-R4

Commissioner  
Alabama Department of Corrections  
301 South Ripley Street  
P.O. Box 301501  
Montgomery, Alabama 36130-1501

**Re: Notification of Receipt, Rejection, and Referral of Administrative Complaint**

To Whom It May Concern:

This letter is to notify you that the U.S. Environmental Protection Agency, Office of Civil Rights (OCR), is rejecting the referenced complaint from an inmate in the Alabama Department of Corrections. In the complaint received July 21, 2015, the inmate alleged that the Alabama Correctional Facility employees at Limestone Correctional Facility are not enforcing the Alabama Clean Indoor Air Act, ALA Code § 22-15A-1 *et seq.* EPA is rejecting and referring this complaint to the Department of Justice's (DOJ) Civil Rights Division due to its lack of jurisdiction.

Pursuant to EPA's nondiscrimination regulations, the OCR conducts a preliminary review of correspondence to determine acceptance, rejection, or referral. 40 C.F.R. § 7.120(d)(1). To be accepted for investigation, correspondence must meet the jurisdictional requirements described in EPA's Part 7 regulations. First, it must be in writing. Second, it must describe an alleged discriminatory act that, if true, may violate EPA's nondiscrimination regulations (*i.e.*, an alleged discriminatory act based on race, color, national origin, sex, age, or disability). Third, it must be filed within 180 calendar days of the alleged discriminatory act. Finally, correspondence must be filed against an applicant for, or a recipient of, EPA assistance that allegedly committed the discriminatory act.

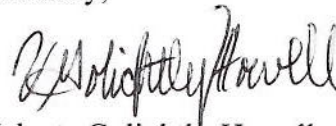
After careful review, the OCR is rejecting the subject referenced complaint because: 1) neither the Limestone Correctional Facility nor the Alabama Department of Corrections is an applicant for, or recipient of, EPA financial assistance; and 2) Complainant does not allege a discriminatory act that may violate EPA's nondiscrimination regulations. Therefore, the complaint does not fall within the OCR's jurisdiction, and the OCR must reject it for investigation. The decision not to investigate

amounts to a decision on the merits. Rather, it means the complaint has not met the jurisdictional criteria.

However, due to the circumstances underlying the Complainant's allegation, the OCR is referring his complaint for potential further action to the DOJ. A copy of the letter to DOJ is enclosed. The contact at DOJ is Michael Alston. Mr. Alston's contact information is U.S. Department of Justice, 810 Seventh Street, N.W., Washington D.C., 20531, (202) 354-4380, [askOCR@ojp.usdoj.gov](mailto:askOCR@ojp.usdoj.gov).

If you have any questions, please contact William Yon at (202) 564-5617, at [yon.william@epa.gov](mailto:yon.william@epa.gov), or at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460. Thank you.

Sincerely,



Velveta Golightly-Howell  
Director, EPA OCR  
Office of Civil Rights

Enclosure

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Vickie Tellis  
Acting Assistant Regional Administrator  
U.S. EPA Region IV  
(MC 9T25)





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

AUG 27 2015

**Return Receipt Requested**

Certified Mail#:7009 2820 0002 1759 1162

**In Reply Refer to:**

EPA File No 21U-15-R4

OFFICE OF  
CIVIL RIGHTS

Mr. Michael Alston  
Director, Office of Civil Rights  
Office of Justice Programs  
U.S. Department of Justice  
810 Seventh Street, N.W.  
Washington, D.C. 20531-3718

**Re: Referral of Administrative Complaint EPA File Number 21U-15-R4**

Dear Mr. Alston:

This letter is to notify you that the U.S. Environmental Protection Agency (EPA), Office of Civil Rights (OCR), is referring the subject complaint that we received on July 21, 2015 from an inmate in Limestone Correctional Facility to your office due to its lack of jurisdiction. The Complainant alleged that Alabama Department of Corrections employees at Limestone (ADOC) are not enforcing the Alabama Clean Indoor Air Act, ALA Code § 22-15A-1 *et seq.* However, since neither the Limestone Correctional Facility nor the Alabama Department of Corrections is an applicant for, or recipient of, EPA financial assistance, the inmate's complaint does not fall within the OCR's jurisdiction, and the OCR must reject it for investigation. Additionally, the Complainant does not allege a discriminatory act that may violate EPA's nondiscrimination regulations. The OCR has notified the Complainant that his complaint has been forwarded to your office and provided your contact information.

The OCR also notes that the subject complaint is similar to a former administrative complaint filed on January 26, 2015 (EPA File No. 01R-15-R4). In that administrative complaint, the Complainant also alleged that ADOC was not enforcing the Alabama Clean Indoor Air Act. Since the OCR rejected and referred that complaint to your office for lack of jurisdiction, we are also rejecting and referring this amended complaint.

If you have any questions, please contact William Yon at (202) 564-5617, at [yon.william@epa.gov](mailto:yon.william@epa.gov), or at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460.

Sincerely,



Velveta Golightly-Howell  
Director  
Office of Civil Rights

Enclosure

cc: Elise Packard  
Associate General Counsel, Civil Rights & Finance Law Office, EPA  
(MC 2399A)

Vickie Tellis  
Acting Assistant Regional Administrator, U.S. EPA Region IV  
(MC 9T25)



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
WASHINGTON, D.C. 20460

**JAN 20 2016**

OFFICE OF  
CIVIL RIGHTS

**Return Receipt Requested**

Certified Mail #:7015 0640 0006 0305 6841

**In Reply Refer to:**

EPA File No: 22X-15-R6

Mr. Kurt Hogaboum  
Village Villas Rentals  
Post Office Box 8548  
Hot Springs Village, Arkansas 71910

**Re: Acknowledgement of Receipt and Rejection of Administrative Complaint**

Dear Mr. Hogaboum:

This is to notify you that the U.S. Environmental Protection Agency (EPA) Office of Civil Rights (OCR) received correspondence from a tenant on August 6, 2015. In it, the tenant alleges that your company failed to inspect and eliminate an infestation of bats. After careful review, the OCR determined that the information in the communication did not meet the jurisdictional requirements for a complaint as prescribed by EPA's nondiscrimination regulations. Thus, the matter is rejected for investigation, and the case is closed as of the date of this letter. *See* 40 Code of Federal Regulations Part 7.

If you have any questions, please contact Jonathan Stein at (202) 564-2088, [stein.jonathan@epa.gov](mailto:stein.jonathan@epa.gov), or at U.S. EPA, Office of Civil Rights (Mail Code 1201A), 1200 Pennsylvania Avenue, N.W., Washington, D.C., 20460. Thank you.

Sincerely,

A handwritten signature in black ink, which appears to read "Velveta Golightly-Howell", is positioned above the printed name.

Velveta Golightly-Howell  
Director  
Office of Civil Rights

cc: Elise Packard  
Associate General Counsel  
Civil Rights & Finance Law Office

Samuel Coleman  
Deputy Regional Administrator  
Deputy Civil Rights Official  
U.S. EPA Region 6